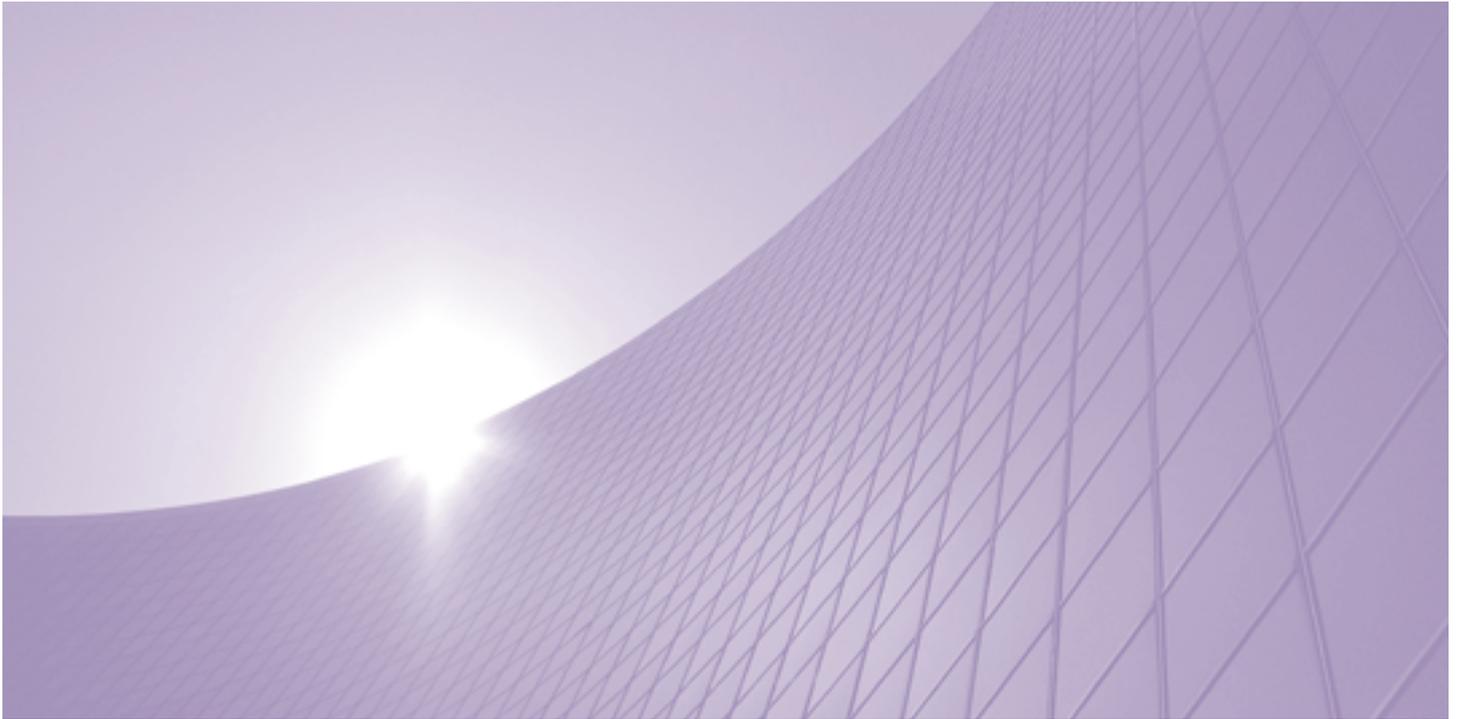


2003 FICS ANNUAL REVIEW



2003

FICS ANNUAL REVIEW



FINANCIAL INDUSTRY
COMPLAINTS SERVICE LIMITED



Alison Maynard
Chief Executive

It is with much pleasure, and in accordance with the Rules of the Financial Industry Complaints Service that on behalf of the Board, Management and staff of FICS, I present the Annual Review for the period ending 31 December 2003.

This year we have approached the Review a little differently, focusing on the Team at FICS and Resolving Financial Industry Complaints. Information on the activities of FICS during 2003, as well as our complaint statistics and case studies, are also included.

I hope you find our Annual Review interesting and informative and would welcome any comments, which should be forwarded to our National Relations Manager, Trevor Slater, who can be contacted on (03) 8623 2029 or email tslater@fics.asn.au.

A handwritten signature in purple ink that reads "Alison Maynard". The signature is written in a cursive, flowing style.

Alison Maynard
Chief Executive

CONTENTS

2003

FICS ANNUAL REVIEW

CASE STUDIES

Investment concerns resolved by formal Conciliation Conference	11
Life Insurance	27
Financial Planning	30
Stockbroking	32
Managed Investments	35

About the Service	2
Our Team at FICS	3
The FICS Team	4
The FICS Complaints Process	9
The Conciliation Conference Process	10
Panel Chair Report	12
Panel Members	15
Statistical Summary	19
Telephone Contacts	20
Written Complaints	21
INDUSTRY INFORMATION	25
Life Insurance	25
Financial Planning	28
Stockbroking	31
Managed Investments	33
Chief Executive's Report	36
Chair of the Board's Report	39
The Board of Directors	41
About the Board	43
Education	46
Membership	47
Systemic Issues and Serious Misconduct	48
Future Developments	50
Organisation Chart	51
Member Companies	52

ABOUT THE SERVICE

FICS ANNUAL REVIEW

2003

The Financial Industry Complaints Service Limited came into being on 26th October 1999. However, the underlying scheme has been in operation since 1991.

The Service resolves complaints relating to members of the financial services industry including life insurance, pooled superannuation trusts, managed investments, stockbroking, financial advice, investment advice and sales of financial investment products.

FICS was approved by the Australian Securities and Investments Commission (ASIC) in October 1999 pursuant to ASIC Policy Statement 139 which provides the guidelines by which ASIC assess the Service for approval. The guidelines address the areas of accessibility, independence, fairness, accountability, efficiency and effectiveness.

The Service is governed by a Constitution and Rules. The Constitution sets out the objectives of the company and governs its operations. The Rules, on the other hand, provide the detail on how the Service will deal with complaints. The Constitution of the company may only be changed at a General Meeting. However, the Rules of the Service may be changed by the Board. ASIC must also be consulted when any changes to the Service's Constitution or Rules are being considered.

MISSION STATEMENT

"Providing an independent service resolving disputes between Members and Consumers fairly and efficiently."

OUR TEAM AT FICS

2003

FICS ANNUAL REVIEW

It is a well-known fact that an organisation is only as good as its people.

One of the strengths of FICS is the vast amount of experience and knowledge, as well as motivation and dedication to the resolution of complaints, of the persons who make up the team at FICS.

On the following pages are details of the FICS Team.

"Coming together is a beginning, staying together is progress, working together is success."

Henry Ford



L – R Standing

Phillip Robinson, Trevor Slater, Nichola Brown, Alycia James, Kevin Haddon, Lauren Bradford, Dennis Cooper, Maria Romeo, Andrea Joynes, Louise Sciacca, Susan Haslam, Denny Meadows, Mike D'Argaville, Ada Bombardieri, Alison Maynard, Susan Woodford

L – R Seated

Alan Smith, Averil Summers, Lorraine Russell-Haddon, John Plunkett, Amelia Taeuber, Robert Dane, Eleanor Koning, Maureen Murrill

Absent

Brian Carpenter, Dianne Comtesse, Judith Floody, Michele Foulds, Michael Ridgeway, Michele Wood

THE FICS TEAM

FICS ANNUAL REVIEW

2003

CHIEF EXECUTIVE

Alison Maynard has been the FICS Chief Executive since January 2001. Prior to this she was the National Operations Manager at Insurance Enquiries & Complaints Limited (IEC), the external dispute resolution scheme for the general insurance industry. She has also worked as a Director of the SIO Consumer Appeals Centre, Supervisor of Clinical Training at Leo Cussen Institute (Solicitor Training) and as a solicitor at the Coburg Legal Centre.

Alison holds a Bachelor of Jurisprudence and a Bachelor of Law from Monash University. She was admitted to legal practice in April 1982.

PANEL CHAIR

Michael Arnold joined FICS in November 2003 and has extensive private legal practice experience. He was formerly Deputy President and Judge of the Accident Compensation Tribunal. More recently he held the positions of Referee, Alternate Panel Chair and Alternate Adjudicator with the General Insurance Enquiries and Complaints Scheme. He is also a part-time legal member of the Medical Practitioners Board.

Michael's qualifications include Bachelor of Laws and Diploma of Public Policy – Public Sector Management. He has also undertaken studies in Japanese Law, Minerals Law, Industrial Relations Law and Mediation.

NATIONAL OPERATIONS MANAGER

Denny Meadows has been National Operations Manager since October 2002. He has over 20 years experience as a lawyer. Over the 15 years prior to joining FICS he was a member of a number of different Government tribunals – the Social Securities Appeals Tribunal, the Mental Health Review Board, the Veterans Review Board and chaired the Victorian Legal Aid Panel of Independent Reviewers.

Denny has also worked in private practice as both a solicitor and a barrister and in Government positions, including serving as a Legal Officer with the Ministry of Consumer Affairs.

LEGAL SERVICES MANAGER

Mike D'Argaville, who holds the qualifications of B.A. Hons, LL.B, started at FICS in October 2002 as a Panel Case Manager, and became Legal Services Manager in August 2003. Before working for FICS, he has variously been a Case Manager and Senior Case Manager at IEC, a legal research officer and tribunal member for the Social Security Appeals Tribunal, and a solicitor.

He considers his legal and analytical skills, and familiarity with a range of legal and other dispute resolution forums, are his chief assets in supporting the Panel in its decision-making role.

THE FICS TEAM

2003

FICS ANNUAL REVIEW

NATIONAL RELATIONS MANAGER

Trevor Slater commenced with FICS in November 2001 as a Case Manager. He was appointed to his current role in September 2003. Before joining FICS he was the Negotiations Manager for AMP Life Ltd, which involved the resolution of high-level complaints. Prior to this he was a Visitation Officer for the Claims Unit of AMP. He has also conducted workshops on customer relations and complaint resolution.

Trevor is a qualified mediator and negotiator and holds a Graduate Diploma in Conflict Resolution from La Trobe University. He is also a Senior Associate of the Australian and New Zealand Institute of Insurance and Finance.

MEMBERSHIP COORDINATOR

Lorraine Russell-Haddon has been the Membership Coordinator for FICS since June 2000. She has performed various roles including serving as a stenographer with Lumley Life, Secretary/Personal Assistant to National Marketing Managers of Adler Triumph and CSR Limited (as well as several years as an Account Manager CSR), and lastly before joining FICS, a Risk Control Liaison Officer for Myer Melbourne for eight years.

Lorraine aptly fulfils this challenging role which involves communication with all levels of Members, acting as a conduit for any questions they may have regarding their membership with FICS and FICS Management, as well as ongoing liaison with ASIC and industry associations which may request assistance or input in respect to Members of FICS.

ASSISTANT MEMBERSHIP COORDINATOR

Kevin Haddon has been assisting the Membership Coordinator since October 2003. Prior to this position Kevin worked in the oil industry for over 19 years as a Wholesale Accountant and as a Territory Manager for eight years. From there he owned and operated a retail business (Newsagency, Post Office and Tattersall Agency) for 15 years.

Kevin's administration, business and practical experience make him an asset in assisting the Membership Coordinator in attending to the requirements of FICS Members.

TECHNICAL SUPPORT AND ENQUIRIES MANAGER

Robert Dane commenced with FICS in 2003 as the Enquiries Manager. In early 2004 he also took on the role of Technical Support and Enquiries Manager. Robert's background is in the technical area of IT and before FICS he was involved with the EFT industry.

Robert has some very exciting ideas to better utilise the FICS IT systems, which will deliver benefits to the users of FICS services.

THE FICS TEAM

FICS ANNUAL REVIEW

2003

CASE MANAGERS

Nichola Brown, who is a qualified mediator, has been employed at FICS since mid 2003 as a member of the Conciliation Team. Prior to FICS she worked for AMP in various roles including service in the Complaints Management Team, dealing predominantly with dispute resolution and complaint analysis. She has extensive experience in complaint handling, negotiation and mediation and vast knowledge of the financial services industry.

Dennis Cooper has been with FICS since its very early days, when it was initially established by the life insurance industry. Prior to this he worked for many years for the AMP Society in customer service management. He has completed formal mediation training and qualified as a Fellow of the Australian and New Zealand Institute of Insurance and Finance.

Andrea Joynes worked in the stockbroking industry for 11 years, and worked as a stockbroker for the last eight years. She has a Diploma in Financial Markets, Australian Securities Institute of Australia (ASIA) and joined FICS in mid 2002. Since that time Andrea has completed formal training in conciliation, mediation & negotiation, which has provided her with the skills to draw from when assisting parties to resolve their complaints.

Maureen Murrill joined FICS as a part-time Case Manager in September 2002. Maureen's background includes experience in stockbroking and as a business journalist/editor with national newspapers and magazines. As such she has extensive knowledge of the current and historical financial sector, in particular financial planning and stockbroking. She is also a qualified mediator and is an associate of ASIA.

Phillip Robinson commenced at FICS in April 2003. He has an LL.B and a BA majoring in History. Both were obtained at the University of Otago, NZ. He has also completed a Graduate Certificate in Financial Planning through ASIA. Phillip has experience in a variety of legal areas, including administrative law and financial services law, as well as investigating and resolving complex complaints, as an advocate, company representative and through working for an independent authority.

Alan Smith has extensive knowledge of the financial services industry having been with FICS since it was initially established. Prior to this he was in the life insurance industry for over 30 years, working in the areas of customer service management, superannuation, trusts, underwriting and claims.

PANEL LIAISON MANAGER

Susan Haslam worked at the State Insurance Office as a motor and domestic underwriter 1988–1992. Whilst studying for a law degree at the University of Melbourne she worked for the State Trustees Limited (1992–2002) managing the financial and legal affairs of disabled persons. She has an LL.B (Melbourne) and was admitted to practice in March 2003 and started at FICS in April 2003.

Susan's legal knowledge and experience in tribunals and in the insurance/financial sector, is of great benefit to FICS.

THE FICS TEAM

2003

FICS ANNUAL REVIEW

PANEL CASE MANAGERS

Ada Bombardieri has the qualifications of B.Comm., LL.B, M. Corp.Law and was admitted to practice in 1989 and worked as a solicitor until 2001 when she joined IEC as a Case Manager. In August 2003 she joined FICS as a Panel Case Manager. Ada brings to FICS a vast array of skills and knowledge in the fields of commercial law and external dispute resolution schemes.

CONCILIATORS

Michael Ridgeway previously worked with the Energy and Water Ombudsman Victoria (EWOV) for five years as the Manager Conciliation prior to being appointed as the Conciliation Manager with FICS. In these roles, Michael was responsible for investigating and conciliating complaints against Victorian energy and water providers, and was responsible for the operational management of the Conciliation team, and training and developing Conciliation staff. Most recently Michael has been working with ASIC in its Public and Commercial Services Directorate, where he has been responsible for assessing and investigating complaints involving corporate misconduct and breaches of corporations and financial services laws and regulations. Prior to working with the EWOV, Michael completed an Arts/Law degree at the University of Melbourne.

Dianne Comtesse joined FICS in May 2004. Prior to being appointed as a Conciliator with FICS, she previously worked at the Superannuation Complaints Tribunal (SCT) as a Conciliator and Case Officer for three years. Her previous working background is in Local Government handling contentious planning disputes and waste management issues and in the Travel Industry for 15 years in various positions including handling complaints by both Corporate and holiday clients. Dianne has qualifications in Alternative Dispute Resolution, previously held Travel Management qualifications and Certificate 4 in Workplace Training and Assessing Cat II.

Alycia James joined FICS as a member of the Conciliation Team in October 2003. Prior to this she was employed as a conciliator with the EWOV. Her other employment background is in the Financial Counselling Welfare and Youth sectors. Alycia has a Diploma in Community Services – Welfare, Diploma in Community Services – Financial Counselling Certificate 4 in Workplace Training and Assessment. Since joining FICS, she has qualified as a mediator.

ENQUIRIES OFFICERS

Brian Carpenter commenced with FICS in May 2004. He has worked mainly in the customer service/client liaison field, with experience in banking, finance, insurance and other related industries. He holds a Bachelor of Arts in Media Studies from RMIT and is Tier 2 compliant under the FSRA. Brian's background in finance and insurance, combined with his customer service skills developed over the last 10 years, serves him well as an important contributor to the Enquiries Team.

Judith Floody commenced with FICS in March 2004. She has been in administration for eight years and has also performed roles as Personal Assistant, Receptionist, Project Coordinator and Social Worker. She holds a Bachelor of Arts in Sociology & Law from La Trobe University and a Bachelor of Social Work from Melbourne University. Her strong customer service focus and experience in dealing with complaints makes her a great asset in the Enquiries area.

THE FICS TEAM

FICS ANNUAL REVIEW

2003

SUPPORT STAFF

Michele Foulds is the Personal Assistant to the National Panel Chair. She has worked as a Personal Assistant to senior management in various industries, the most recent experience being in the insurance industry. After a break for family reasons she took up her present position.

Maria Romeo has been the Executive Assistant for the last two years and has over 17 years experience in the administrative/assistant field. As well as providing administrative support to the Chief Executive, she coordinates many of the FICS' events, such as board meetings and liaison meetings and provides invaluable support in the production of FICS Bulletins, Annual Review and other public documents and presentations.

Louise Sciacca joined FICS in 2003 as our receptionist and after taking a short break to gain experience in other areas returned in 2004. She has completed Certificate III and IV in Information Technology and Network Administration in 2001/2002. Whilst studying, Louise completed a year traineeship with a software development company as a software tester. Louise is currently the Case Manager Secretary at FICS.

Averil Summers commenced with FICS in February 1994 as a Secretary providing support to the Case Managers and Enquiries Officers. She was instrumental in the creation of the FICS Membership area before leaving on maternity leave. Upon returning, she provided support to the Panel Liaison Officer. Averil has once again returned from maternity leave and is now assisting the National Relations Manager.

Michele Wood has been the Panel Liaison Secretary since early 2003. She assists the Panel Liaison Manager and provides support for the Legal Services Manager and Panel Case Managers. Michele has 16 years experience in Senior Receptionist, Secretarial, Personal Assistant/Executive Assistant roles and has completed Secretarial, Computer and Accounting studies.

THE FICS COMPLAINTS PROCESS

2003

FICS ANNUAL REVIEW

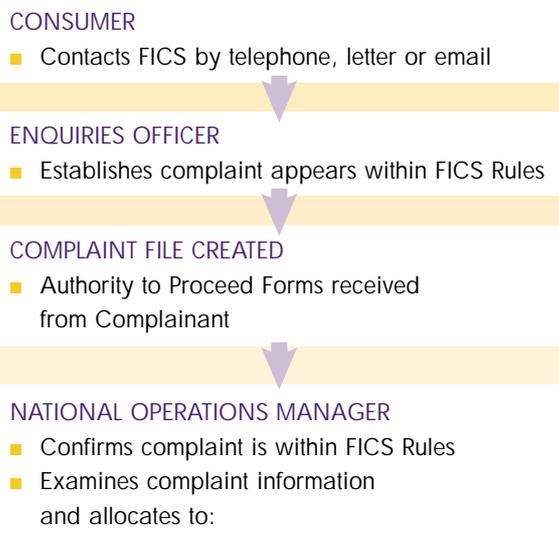
THE RESOLUTION OF COMPLAINTS

FICS is a national service, which is free to consumers. The Service operates through a process of investigation, negotiation, conciliation and formal determination.

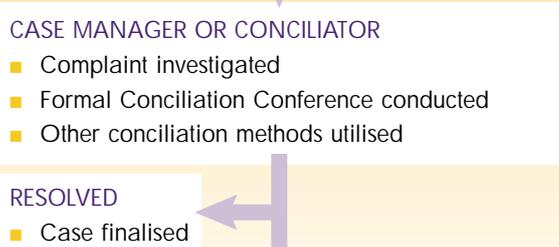
As FICS has developed over the years its focus has shifted from providing advice as to the merits of a complaint to the resolution of a complaint through the use of negotiation and conciliation by skilled Case Managers and Conciliators. In 2003 the majority of cases were finalised at the Case Manager stage.

COMPLAINTS FLOW CHART

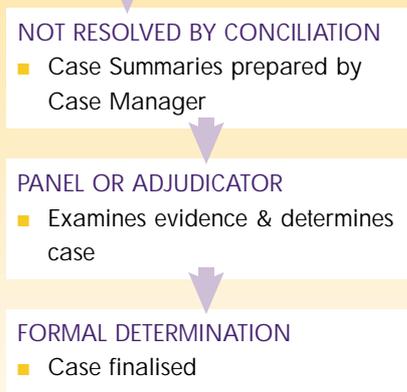
INITIAL ASSESSMENT



CONCILIATION



ARBITRATION



In 2004 FICS will continue to improve the services it offers to both complainants and Members in the resolution of complaints.

Although Case Managers and Conciliators make every attempt to resolve complaints by mutual agreement, at times this cannot be achieved.

In such matters the case is referred to the Panel, or an Adjudicator, if the case is non-complex and its value is under \$10,000, for a formal determination.

In 2004 a review of the FICS complaint process was undertaken with a view to increase the use of Conciliation Conferences and reduce the time it takes to resolve or finalise a complaint.

FICS JURISDICTION

The operations of FICS are governed by a set of Rules. The Rules specify a number of limits on FICS jurisdiction to handle complaints. These include the requirement that the entity complained about must be a Member of the Service at the time the complaint is made and monetary limits on the amount claimed.

Complaints about the levels of fees and charges or the investment performance of a product cannot be dealt with by the Service, except where the complaint concerns non-disclosure or misrepresentation.

The Service also cannot handle complaints relating to underwriting or actuarial factors that led to insurance being rejected or offered on non-standard terms. Another important limitation is that the Service cannot handle claims for punitive or consequential damages.

FICS is required to initially determine whether or not a complaint falls within the Rules. Ultimately, the decision in relation to jurisdictional issues rests with the Panel Chair or the Panel.

A copy of the Rules are on the FICS website www.fics.asn.au.

THE CONCILIATION CONFERENCE PROCESS

FICS ANNUAL REVIEW

2003

Conciliation helps resolve disputes by sharing information, identifying issues in dispute and in common, discussing them and generating options for resolution.

In 2002 FICS underwent an Independent Review. Arising from this Review and from feedback FICS received from its Members it was decided to undertake a research project into the viability of conducting formal conciliation conferences as part of the FICS processes.

As a result the FICS Conciliation Conference Team was established in August 2003, whereby a new process was set up to enable Members and complainants to participate in Conciliation Conferences as a way to reach an agreeable resolution to the complaint.

The Conciliation Conferences are facilitated by experienced and accredited mediators, who have a vast amount of knowledge in dispute resolution and the financial industry.

The Conciliation Conference pilot has been running since August 2003. During this time a number of areas have been identified for improvement and the pilot continues. It is planned that in 2004 the pilot will be concluded and full implementation established.

The team has received a useful amount of constructive and positive feedback from both Members and complainants. The feedback has shown that this new process is being embraced. The benefits of being able to openly discuss the issues in a confidential environment with the aim of reaching an agreeable resolution are being recognised.

A Conciliation Conference is a process in which the complainant and a representative of the Member come together, usually via a telephone link-up, with the assistance of the FICS Conciliator to generate a resolution to a complaint.

It is not a process that attempts to determine who is right and who is wrong. It is a recognised and successful method of resolving complaints by meeting the needs of all parties.

The FICS Conciliation Conference has been specifically designed for the users of the FICS process. The conferences are undertaken on a strictly confidential basis and are conducted by qualified and experienced Conciliators.

CONCILIATION FLOW CHART

NATIONAL OPERATIONS MANAGER

- Confirms complaint is within FICS Rules
- Examines complaint information and allocates to:

CASE MANAGER

- Assesses suitability for Conciliation Conference

CONCILIATOR

- Writes to Member for response
- Sends confirmation letter to complainant

- Report received
- Suitability for Conciliation Conference confirmed

- Member & complainant advised
- Date set

- Conciliation Conference conducted

- Agreement reached
- Written confirmation sent to parties

- Signed agreement placed on file
- Case finalised

- Agreement not reached
- Case unresolved
- Details of conciliation discussion not placed on file

PANEL or ADJUDICATOR

- Determination made
- Case finalised

- Surveys sent to both parties

- Surveys returned

- Data collated & reports prepared

THE CONCILIATION CONFERENCE PROCESS

2003

FICS ANNUAL REVIEW

CASE STUDY

Investment concerns resolved by formal Conciliation Conference

The complainant in this matter was assessed as being a balanced investor. Part of his investment portfolio was in a highly aggressive fund, which resulted in a loss on this particular investment. Further, at the time the funds were transferred across from an entry fee to a non-entry fee product the total numbers of units were incorrectly transferred. The complainant also expressed concerns in relation to the fact that he was now in a fund that had, what he considered, high management fees and an exit fee. He stated he would have liked to have been given options in relation to other products.

The Member asserted that the aggressive fund the complainant had invested in made up only 5% of the overall investment. According to the Member, when all assets of the complainant were taken into account they matched his risk profile of a balanced investor.

On the question of the incorrect units being transferred the Member suggested that this issue had been rectified.

The Member also asserted that only a non-entry fee product had been offered to the complainant, as this is what he had requested at the time.

Correspondence had been exchanged between the complainant and the Member. However, a resolution had not been reached.

The Member was of the view that despite their best efforts they had not been able to clearly explain to the complainant the reasons behind the actions taken in relation to the issues raised by the complainant. Upon examination of the information supplied by both parties the FICS Conciliator was able to assess that in her view both parties had been communicating or corresponding in different manners which was leading to the confusion of the complainant and the Member.

In particular as a qualified mediator she was able to appreciate and understand the points both parties were trying to make.

The FICS Conciliator contacted the complainant and the Member and suggested that it could be beneficial for them to participate in a formal Conciliation Conference. Both parties agreed to do so and the matter was resolved by mutual agreement.

PANEL CHAIR REPORT

FICS ANNUAL REVIEW

2003

The impact of the Government's financial services reform agenda has seen substantial growth and increased diversity in the membership of FICS.

This will present a challenge for the Service generally and the Panel in particular. There is the potential for an increase in workload as well as a demand for new expertise in its Panel membership to deal with the varied financial complaints that come before it.

It was in this context that I was pleased to accept the appointment as the first full-time Panel Chair. In this role I intend to build on the work done by past Panel Chairs as well as develop methods of streamlining its processes to assist in speedy decision-making. This will include highlighting significant decisions in the Service's bulletins so that parties can adjudge their likelihood of success before the Panel. The provision of such information should assist in the early resolution of complaints.

I congratulate Dick Viney, my predecessor as Panel Chair, who has done outstanding work up until the time of my appointment in November 2003. Dick had been active in his work in the determination of disputes and also refining processes to improve the operation of the Panel system and contribute to the efficiency and effectiveness of FICS generally. His innovations provide a solid basis for further improvements in the Panel's operations.

In particular, he had a strong hand in the consultative processes that led to the development of two particularly important Practice Notes relating to proof of underwriting guidelines in insurance claims and the exchange of information required in all matters that come before the Panel.

He also highlighted the need for clarification of the timing of making available to complainants video surveillance evidence to ensure procedural fairness. A draft Practice Note in relation to this issue has been circulated in a FICS bulletin for consultation.

I strongly support the philosophy behind these Practice Notes as they make the dispute resolution process fairer and more transparent.

Previous Panel Chairs have also emphasised the importance of having all issues relating to a complaint dealt with at the one Panel hearing. The problem being that there are often unresolved issues or insufficient information for the Panel to determine the quantum of the complainant's loss or entitlement. This can apply both in complaints about losses arising from financial service advice and the non-payment of entitlements under life insurance income stream risk products. The result is unnecessary delays and possible hardship. In this regard a discussion paper has been circulated to Members and stakeholders in a FICS bulletin.

It is my intention to follow up in relation to these issues and engage in consultation with Members and other stakeholders to produce further Practice Notes, as necessary, to assist parties who come before the Panel to have their disputes determined.

EXCHANGE OF INFORMATION

The Panel expects both the complainant and the Member to provide all material that is relevant to the issues in dispute. The parties have the ability under Practice Note 2 to seek to withhold material from each other but the Panel expects to be fully informed. The Panel Chair will in fact decide whether one party is entitled to withhold information from the other.



Michael Arnold
Panel Chair

PANEL CHAIR REPORT

2003

FICS ANNUAL REVIEW

By way of reminder, an adverse inference may well be drawn against a party who is shown to have deliberately not provided relevant material to the Panel.

Further, I believe that it is in the interests of both parties to exchange all information and supporting material at the earliest possible time after a complaint has been made. Early exchange of views and supporting evidence can often resolve a dispute or at least narrow its scope.

If a Member was to conduct a meaningful internal review of a complaint it could only do so if both parties were in possession of all the relevant material. There is an added benefit, even if the complaint is not resolved, in that it will obviate the necessity of further exchange of the material if the complaint comes to FICS.

EVIDENCE

Members, in our Liaison Meetings and Member Information Seminars, have raised the question of the provision of evidence where an employee has left a company. Whilst the Panel can inform itself in any way it thinks appropriate it is important that it obtains direct rather than hearsay evidence wherever possible.

This means there should be signed statements from all witnesses who are providing information in relation to an issue in dispute. It is important to provide first-hand evidence as to the actual facts in dispute together with any supporting evidence as to usual practice, procedures, underwriting guidelines and the like. Parties may paraphrase or condense statements of their witnesses in a submission but the signed document should be made available for the Panel's consideration.

Where an employee has left the employment of a company, all efforts should be made to locate that person and a signed statement obtained. One would expect that if a person leaves one company and moves to another within the profession or industry, that person would appreciate the opportunity to put his/her version of facts surrounding a dispute in order to maintain their integrity.

However the Panel appreciates that there are no legal processes under the Service that can be used to require a witness to provide information let alone a signed statement. Accordingly, if a Member is unable to obtain the evidence from a former employee it should have a senior member of the company provide a statement detailing the endeavours that had been made to obtain the evidence, together with the information that the employee would most likely have provided. Any documentary evidence in the form of notes or records that the employee may have made, that were retained by the Member, should be provided in support.

Members also have raised a related point that goes to proving what instructions were or were not given to them by the clients, particularly over the telephone. Members are advised that it has long been the practice of professionals such as solicitors and accountants to make and keep contemporaneous notes of all instructions. Members should do the same. They should be date stamped or otherwise recorded in a manner that can avoid the allegation of recent invention by a complainant.

The objective is to have the best evidence available to the Panel so that it can make the most informed determination for the parties.

PANEL CHAIR REPORT

FICS ANNUAL REVIEW

2003

PANEL CHAIRS AND MEMBERS

Having referred to past Panel Chairs, recognition should also be given to the work of my fellow Panel Chairs and the Panel Members who are required to deal with increasingly complex and diverse matters. We have very able Panel Chairs in: Ian Thompson (also Adjudicator), Ron Eggleston and Murray Gerkens.

They are assisted by Members from a number of industries and professions. These include Life Insurance: Bob Emery, Iain Ross and Graham Slater; Stockbroking: Frank Baumgartner, Brendan Egan, Ian Johnson, Barry Murray and Terry Power; Financial Planning: Peter Dunn who retired during 2003, John Hewison and Max Weston.

Our Consumer Representatives are John Berrill, Stephen Duffield, Khaldoun Hajaj and Jenny Lawton.

The fact that the Panel has the benefit of very experienced industry representatives as well as astute consumer representatives makes for informed decision-making.

A handwritten signature in blue ink, appearing to read 'M Arnold', with a stylized flourish at the end.

Michael Arnold

PANEL MEMBERS

2003

FICS ANNUAL REVIEW

NATIONAL PANEL CHAIR

Michael Arnold is a Barrister and Solicitor of the Supreme Court of Victoria, since 1966. He was a foundation partner of Arnold Thomas & Becker (Solicitors) 1968, an Attorney, Solicitor and Proctor of the Supreme Court of New South Wales since 1976. He was a Member of the Legislative Council of the Victorian Parliament between 1982 and 1988, a Judge and Deputy President of the Accident Compensation Tribunal in Victoria between 1990 and 1992, senior Legal Consultant and Mediation Specialist between 1992 and 1996. He was a Referee, Alternate Panel Chair and Alternate Adjudicator in the General Insurance Enquiries and Complaints Scheme between June 1996 and November 2003. Michael became the full-time National Panel Chair for the FICS in November 2003.

ALTERNATE PANEL CHAIRS

Ron Eggleston is a retired Magistrate, currently an Alternate Panel Chair.

Murray Gerkens is currently a Legal Practitioner, practising as a consultant to FCG Legal Pty Ltd in areas of corporate, commercial, criminal, administrative and immigration law. He is Executive Director/Company Secretary for a number of companies and lectures for the Law School, Victoria University. Murray is the author of five published legal texts; and was formerly a Magistrate of the State of Victoria; Chairman of Victorian Police Discipline Board; Chairman of the Country Fire Authority Tribunal; Chairman of the Melbourne & Metropolitan Fire Brigades Tribunal; First Member of the Refugee Review Tribunal.

Ian Thompson is a qualified Barrister, Lincoln's Inn and Barrister & Solicitor, Victoria. He has served as the Panel Chair for the Life Insurance Complaints Service; Commissioner, Fiji Law Reform Commission (Visiting). Ian is currently also an Adjudicator.

Dick Viney is a Barrister and Solicitor of the Supreme Courts of Victoria and Western Australia.

CONSUMER REPRESENTATIVES

John Berrill was the consumer representative on the FICS Panel between 1995 and 2001 and was reappointed from 2003. He is an insurance and superannuation lawyer and in private practice is a partner of the national law firm, Maurice Blackburn Cashman. John is an accredited personal injuries specialist and is a member of: Consumers' Federation of Australia; Insurance Council of Australia – Consumer Consultative Committee; Superannuation Complaints Tribunal Liaison Committee; Law Institute of Victoria Superannuation Committee. John was a founding member of the Victorian HIV/Aids legal service, was a member of the FICS Rules Committee and has been a legal adviser to many disability support groups.

Stephen Duffield is currently Manager, Human Rights Unit – Human Rights & Equal Opportunity Commission and the Consumer Representative for FICS. He holds a Bachelor of Jurisprudence. He has been a Government Relations Consultant; Director, Strategic Communications, SA Department of the Premier and Cabinet.

PANEL MEMBERS

FICS ANNUAL REVIEW

2003

Khaldoun Hajaj is a prominent consumer advocate with expertise in dispute resolution, general insurance, life insurance and superannuation. He is currently acting as General Manager of the Insurance Brokers Disputes Ltd, a Director of Policy and Research at the Financial Services Consumer Policy Centre and is Visiting Fellow at the University of New South Wales Faculty of Law where he also teaches Insurance Law and Financial Services Law Reform. He has qualifications in Arts, Political Economy and is completing a Law Degree. He held policy related positions at Federal and State Parliaments and has had first hand experience of industry practice whilst working as a Government Relations Adviser at the Financial Planning Association. He is an active member of the Consumers' Federation of Australia.

Jenny Lawton was appointed to FICS in 2003. She worked from 1987 to 2004 as a consumer advocate and financial counsellor in a variety of community settings, including four years with the Victorian Aboriginal Legal Service. These roles involved conducting casework and undertaking policy and research into consumer financial issues, as well as actively promoting consumer education and professional development on related topics. Trained and experienced in alternative dispute resolution techniques, Jenny has also taken on consultancy roles for commercial and consumer projects. She has held various Board positions with the Consumer Rights Council Victoria, was Chairperson of the Welfare Rights Unit for nine years, and has been an Executive Member of the Consumers' Federation of Australia since 2000. A graduate in Primary Teaching, Arts and Law, Jenny was an alternate member of the General Insurance Claims Review Panel between 1993 and 2004.

Kim Wilson is a qualified solicitor and mediator and acts as a consultant in areas of policy development and strategic advice, Government relations, regulatory affairs, facilitation, mediation and arbitration, negotiation and issues management.

In recent times his appointments and consultancies have included: Deputy Chairman, NSW Coal Compensation Tribunal; Chairman, Fair Trading Advisory Council, Infommercial Inquiry; Member, Internal Ombudsman Panel, Civil Aviation Authority Australia and Presidential Consultant, National Native Title Tribunal.

LIFE INSURANCE REPRESENTATIVES

Robert Emery has worked in the financial services industry for over 30 years, the last 13 years as Compliance Manager with CBA, IAG (NRMA) and currently with ClearView Retirement Solutions (a company of the MBF Group) as Head of Compliance and Risk. He was appointed as an industry member of the FICS Panel in 1998. Robert is also a member of the ClearView Compliance Committee. He is a Fellow of the National Institute of Accountants, a member of the Australian Institute of Company Directors and a Councillor of the Australian Compliance Institute.

Iain Ross is experienced as a life insurance executive, superannuation consultant and trustee, board member. He qualified as an actuary in 1962 and worked in life insurance in the UK till 1972 consulting with R Watson and Sons mainly with superannuation funds till 1997. He was the Chief Executive Officer of Scottish Amicable Australia in 1997, became the chief actuary of Colonial when it acquired Scottish Amicable in 1990. Iain was the former president of the Institute of Actuaries of Australia and chairman of the Life Insurance Federation. Since retiring from full-time work in 1994, he has held various positions on boards and committees.

PANEL MEMBERS

2003

FICS ANNUAL REVIEW

Graham Slater is an actuary with a wide experience in life insurance. He was appointed an industry member of the FICS Panel in June 2002. He is also currently a member of the Life Insurance Actuarial Standards Board and the convener of the Professional Standards Committee of the Institute of Actuaries of Australia. Until his retirement from full-time employment in August 2000, he has worked for the AXA Asia Pacific Group for many years, ultimately becoming its Group Chief Actuary and the appointed actuary of both the National Mutual Life Association and Australian Casualty & Life. He was also a director of Australian Casualty & Life and of AXA China Region and is a former member of the Council of the Institute of Actuaries of Australia.

STOCKBROKING REPRESENTATIVES

Frank 'Keith' Baumgartner commenced his stockbroking in 1956 with Ian Potter & Co until 1976, was appointed as a Stock Exchange Inspector by the Melbourne Stock Exchange 1977. He joined E L & C Baillieu 1978, and was elected as a member of the Stock Exchange of Melbourne 1987. He became a Director of E L & C Baillieu from 1987. He was a Member of the National Settlement Advisory Committee and Chairman of the Melbourne division. He was appointed to the Melbourne Stock Exchange Board 1989, appointed to ASX Melbourne Board on formation in 1994. He was the founding member and director of E L & C Baillieu Stockbroking Ltd. Frank retired from stockbroking in 2000. Currently he is a Panel member for the National Adjudicatory Tribunal (ASX appointment); Panel member for the ASTC Disciplinary Tribunal (ASX appointment); and an industry representative to the Panel for FICS.

Brendan Egan has 40 years experience in the securities industry. He is Partner/Director/Deputy Chairman Ord Minnett/JPMorgan – 1972/2004; Member/Affiliate Australian Stock Exchange – 1983/2004; Director Australian Stock Exchange Limited – 1992/1999; Chairman Securities & Derivatives Industry Association – 1999/2002.

Ian Johnson became Managing Director of Tolhurst Noall Group Ltd and Tolhurst Noall Ltd, 2001. In 2003 he retired as Managing Director of both companies but remained as an Executive Director of main group companies.

Barry Murray has a Diploma in Option Strategies (Market Makers Course) Sydney Stock Exchange December, 1984; Futures and Options Course, Commodities Educational Institute Chicago, USA June, 1987; Derivatives Adviser Accreditation (Levels One & Two) Australian Stock Exchange August, 1998; Consultant ASIC Exchange Traded Options; PS146 Accredited Adviser Australian Financial Services Act.

FINANCIAL PLANNING REPRESENTATIVES

Anne Bartholomew has worked in the financial services industry since 1984 initially in banking and funds management before moving to financial planning. She is currently a senior adviser at Mercer Human Resource Consulting Financial Planning in Melbourne. She completed a Master's Degree of Business Administration in 1984 and is a Certified Financial Planner.

John Hewison entered the financial planning industry in 1985 following a successful career in senior corporate management and private consulting. John was elected as a Director of the FPA in 1997 as the representative of small Principal Members. In 2000–01, he was elected by the Board as the FPA Chairman and served in that capacity until his compulsory retirement

PANEL MEMBERS

FICS ANNUAL REVIEW

2003

as a Director in November 2001. John has been appointed to the Panel of FICS as the financial planning industry representative. Although this is normally a paid position, John has chosen to serve on an honorary basis.

Peter Roan is a Certified Financial Planner with over 17 years experience in the financial services industry including management roles. Peter is a member of the Financial Planning Association and currently Chapter Chair for the Western Division (NSW) for a sixth year. He is also: an Accredited Advisor for the National Seniors Association; a past member of the FPA National Education Committee for three years; a past member of the Financial Planning Industry Efficiency Advisory Group; current Member of the Australian Ethical Investment Association; Member and Director of Orange Daybreak Rotary Club.

Peter Van West has been the owner of Investment Initiative for over 10 years. He is a senior planner for the firm and is responsible for all the planning decisions. In 2001, three colleagues and himself established their own Dealer Principal company, Financial Force Pty Ltd, which is an Australian Financial Services Licencee and is a Dealer Principal Member of the Financial Planning Association. His role is Director, Compliance, Training and Development. Prior to establishing Investment Initiative he was Manager, Financial Planning, Queensland for Trust Company of Australia Limited for 6.5 years. Prior to that he worked for the ANZ Banking Group where he was a Personal Banking Officer. He has had 30 years of experience in personal and small business finance with unique experience in several key areas such as estate planning, lending and small business advising property acquisition, debt counselling and financial recovery.

Max Weston has had 36 years continuous experience in the securities and financial advisory industry including: 14 years working in all facets of stockbroking; eight years as Executive Director, Godfrey Weston Ltd; three years as Chief Investment Manager, Equities, Growth Equities Mutual Limited; and 11 years as Executive Director and National Chairman – KPMG Financial Services Pty Ltd/St George Wealth Management Limited.

Gavin Wright joined the financial services industry in 1986 through National Mutual. Until now he has worked in the insurance, accounting and banking industries but always with a focus in Financial Planning. In 1993 he was appointed to head the financial planning unit of KPMG for Victoria and Tasmania and built that practice substantially, before he left to start his own practice Wright Planning in 1997. In July 2001, Investec and Wright Planning came together to establish the Private Client Advisory unit in Melbourne. Earlier this year Gavin re-established Wright Planning Pty Ltd. Throughout his career, Gavin has been committed to ongoing education and is a Certified Financial Planner (CFP) and is Chair of the Education Committee for the FPA. Since 1993, Gavin has operated an independent and fee-based practice focusing on client needs and services.

STATISTICAL SUMMARY

2003

FICS ANNUAL REVIEW

A new Case Information Management System (CIMS) was introduced during the year. The major benefit is that it will enable FICS to maintain more accurate records, and therefore provide more accurate, meaningful and timely statistical information.

In addition, we have instituted a number of procedural changes, which will also facilitate more extensive and accurate reporting.

One of the major procedural changes is that every complaint is now entered into CIMS immediately upon receipt, rather than previously when only those that proceeded to investigation were recorded in the Complaint System. The major benefits are that we are now better able to:

- Accurately identify total numbers of complaints received;
- Track precise details of those complaints which do not proceed to investigation and why they do not, i.e., where the complaint was:
 - withdrawn by the complainant, or the complainant failed to respond to requests for further information etc;
 - identified immediately as being outside FICS jurisdiction;
 - resolved by the Member immediately upon referral by FICS, without the need for FICS to investigate further.

The difficulty with the introduction of any new system which is used to provide statistical information is that it can produce data in a different form than preceding years. This has occurred with the introduction of the new FICS CIMS.

As a result, to avoid confusion between different terms and interpretations of the statistical data in some instances only overall complaint and enquiry figures from 2002, for comparison to 2003, are contained in this report.

STATISTICAL SUMMARY

FICS ANNUAL REVIEW

2003

TELEPHONE CONTACTS

	2002	2003
TOTAL	10,979	9,519

During 2003 a joint call centre was commenced with Banking and Financial Services Ombudsman (BFSO) and IEC. Calls are vetted by the call centre staff and directed to the correct area. As a result the number of calls received by the FICS Enquiries Team decreased.

Nature and Product Type of Telephone Contacts

Full details of all calls were not recorded for a number of reasons, the main one being that the caller did not provide the information. The following tables are produced on that basis.

Nature of Complaint

	2002		2003	
	No.	%	No.	%
Denial of claim	1,256	33	739	17
Inappropriate advice	342	9	375	8
Misrepresentation	216	6	1,257	28
Non-disclosure	58	2	107	2
Policy values/charges	87	2	262	6
Standard of company service	1,555	42	1,410	31
Share transaction – misunderstanding	29	1	55	1
Policy terms & conditions	241	6	309	7
TOTAL	3,784	100	4,514	100

There were 4,514 complaints, in which the nature of complaint was recorded.

Product Types

	2002		2003	
	No.	%	No.	%
Allocated Pension	2	<1	182	4
Bank Deposits	*n/a	–	5	<1
Debentures	*n/a	–	1	<1
Deferred Annuity	2	<1	48	1
Endowment	143	4	122	3
Immediate Annuity	10	<1	52	3
Investment Annual Premium	429	12	*n/a	–
Income Protection	1,188	32	1,232	26
Investment Regular Premium	*n/a	–	70	1
Investment Single Premium	302	8	847	18
Master Trusts	0	0	9	<1
Managed Funds	*n/a	–	31	1
Managed Investments	*n/a	–	144	3
Managed Investments – Cash	7	<1	28	1
Managed Investments – Currency	*n/a	–	7	<1
Managed Investments – Shares	10	<1	322	7
Regular Premium	*n/a	–	51	1
Shares – Derivatives Warrants	399	11	207	4
Single Premium	*n/a	–	8	<1
Superannuation – Company	*n/a	–	29	1
Superannuation – Personal	0	0	325	7
Term/Temporary Insurance	506	13	252	5
Total & Permanent Disablement	624	16	225	5
Trauma	38	1	63	1
Unit Trusts – Property	0	0	27	1
Whole of Life	124	3	505	11
TOTAL	3,784	100	4,792	100

* CIMS recording of these categories was altered to more truly reflect the type of product. As such, a number of categories were added and some deleted.

There were 4,792 telephone contacts that were complaints, in which the product type was recorded.

STATISTICAL SUMMARY

2003

FICS ANNUAL REVIEW

WRITTEN COMPLAINTS

Active Complaints

	2002	2003
New complaints received	973	1,038
Reopened	89	268
Finalised	899	863
ACTIVE AT END OF PERIOD	693	934

Cases active at the end of 2003 do not include those that had not yet been assessed (10) and were pending investigation (270) or those where a Panel (14) or Adjudicator (4) decision had been issued but the file was not yet closed. Complaints not yet assessed or pending investigation had not been allocated to a Case Manager, but are included in "New Complaints Received" for 2003. In 2002 complaints were not recorded until they were allocated to a Case Manager.

New Complaints – Industry Type

Industry	2002	2003
Life Insurance	520	441
Financial Planning	257	419
Stockbroking	135	95
Managed Investments	61	83
TOTAL	973	1,038

This table and subsequent tables in each industry section record complaints that have been allocated to a Case Manager during the period.

Finalised During Period

Industry	2002	2003
Life Insurance	495	413
Financial Planning	200	296
Stockbroking	126	86
Managed Investments	78	68
TOTAL	899	863

Status of Open Cases at End of Period

	No.	%
New complaints not yet assessed	10	<1
Investigation pending – See below *	270	22
Complaints under investigation	600	49
Complaints referred to Adjudicator	30	2
Complaints referred to Panel for determination.	304	25
Adjudication issued **	4	<1
Determination issued **	14	1
TOTAL	1,232	100

** The cases remain open pending finalisation of administrative requirements.

*Analysis of Cases Pending Investigation

	No.	%
Information not provided	167	62
No authority received	72	27
Pending decision on jurisdiction	27	10
Not been to IDR	4	1
TOTAL	270	100

STATISTICAL SUMMARY

FICS ANNUAL REVIEW

2003

Geographic Distribution of New Complaints

2003	Life Insurance		Financial Planning		Managed Investments		Stock-broking	
	No.	%	No.	%	No.	%	No.	%
Australian Capital Territory	12	3	15	3	2	2	5	5
New South Wales	118	27	145	35	31	37	33	35
Northern Territory	1	<1	1	<1	16	19	0	0
Queensland	91	21	95	23	4	5	24	25
South Australia	41	9	34	8	1	1	6	6
Tasmania	19	4	4	1	24	29	2	2
Victoria	114	26	93	22	4	5	15	16
Western Australia	43	10	30	7	2	2	10	11
TOTAL	441	100	419	100	83	100	95	100

Summary of all Complaints Finalised and their Outcomes

2003		No.	%
Complaint not Forwarded to Member	Outside Rules	56	78.9
	Withdrawn	5	7.0
	Other*	10	14.1
		71	100
Finalised by Case Manager	In favour of complainant	307	48.9
	In favour of Member	229	36.5
	Outside Rules	46	7.3
	Withdrawn	45	7.2
	Conciliation Conference	1	<1
		628	100
Adjudicator **	In favour of complainant	16	46.0
	In favour of Member	19	54.0
		35	100
Panel **	In favour of complainant	77	59.7
	In favour of Member	48	37.2
	Outside Rules	1	<1
	Withdrawn	3	2.3
		129	100
Total	In favour of complainant	400	46.4
	In favour of Member	296	34.3
	Outside Rules	103	11.9
	Withdrawn	53	6.1
	Conciliation Conference	1	<1
	Other*	10	1.2
		863	100

* Complainant did not provide additional information sought or authority requested.

** Excludes those cases where an Adjudication (4) or Determination (14) has been issued but the case remains open pending finalisation of administrative requirements.

STATISTICAL SUMMARY

2003

FICS ANNUAL REVIEW

Resolution at Time Case Manager Level

		2003	
Industry Type		No.	%
Life Insurance	1 to 40 days	42	14
	41 to 60 days	21	7
	61 to 80 days	25	8
	81 to 100 days	24	8
	101 to 120 days	32	11
	121 days & over	158	52
	TOTAL	302	100
Financial Planning	1 to 40 days	39	18
	41 to 60 days	16	8
	61 to 80 days	23	11
	81 to 100 days	22	10
	101 to 120 days	22	10
	121 days & over	92	43
	TOTAL	214	100
Stockbroking	1 to 40 days	6	10
	41 to 60 days	4	6
	61 to 80 days	5	8
	81 to 100 days	6	10
	101 to 120 days	7	11
	121 days & over	34	55
	TOTAL	62	100
Managed Investments	1 to 40 days	5	10
	41 to 60 days	3	6
	61 to 80 days	4	8
	81 to 100 days	4	8
	101 to 120 days	10	20
	121 days & over	24	48
TOTAL	50	100	
GRAND TOTAL		628	100

Resolution Time at Panel Level

		2003	
Industry Type		No.	%
Life Insurance	Up to 4 months	4	6
	4 to 6 months	23	35
	7 to 10 months	12	20
	Over 10 months	25	39
	TOTAL	64	100
Financial Planning	Up to 4 months	2	5
	4 to 6 months	12	29
	7 to 10 months	10	24
	Over 10 months	17	42
TOTAL	41	100	
Stockbroking	Up to 4 months	3	17
	4 to 6 months	4	22
	7 to 10 months	3	17
	Over 10 months	7	44
TOTAL	17	100	
Managed Investments	Up to 4 months	1	14
	4 to 6 months	2	29
	7 to 10 months	4	57
	Over 10 months	0	0
	TOTAL	7	100
GRAND TOTAL		129	100

STATISTICAL SUMMARY

FICS ANNUAL REVIEW

2003

Referral Source of Complaints

2003	Life Insurance		Financial Planning		Stock-broking		Managed Investments	
	No.	%	No.	%	No.	%	No.	%
Agent/Broker/Financial Adviser	2	<1	3	1	0	0	0	0
ASIC/ACCC	0	0	6	1	2	2	0	0
BFSO	1	<1	1	<1	0	0	0	0
Consumer Affairs Bureau	0	0	1	<1	0	0	0	0
Media – (Newspaper, Magazine, TV)	21	5	34	8	3	4	7	7
Member	369	84	336	80	75	90	80	84
Professional Bodies	21	5	7	2	1	1	3	3
SCT	1	<1	1	<1	0	0	0	0
Telephone Directory	26	6	20	5	4	5	3	3
TOTAL	441	100	419	100	83	100	95	100

STATISTICAL SUMMARY

2003

FICS ANNUAL REVIEW

INDUSTRY INFORMATION

LIFE INSURANCE

Status of Open Cases at the End of the Period

	No.	%
Investigation pending	152	26
Complaint under investigation	258	45
Complaint referred to Adjudicator	15	3
Complaint referred to Panel	144	25
Adjudication issued	2	<1
Determination issued	5	<1
TOTAL	576	100

Nature of New Written Complaints by Category

	2002		2003	
	No.	%	No.	%
Standard of Member service	186	36	70	16
Denial of claim	165	32	295	67
Inappropriate advice	n/a	–	16	4
Policy values/charges	40	8	16	4
Policy terms and conditions	39	7	11	2
Non-disclosure	26	5	5	1
Non-disclosure – fees/charges	n/a	–	1	<1
Non-disclosure – risk	n/a	–	1	<1
Non-disclosure – tax/social security	n/a	–	1	<1
Misrepresentation	64	12	25	6
TOTAL	520	100	441	100

Nature of New Written Complaints by Policy Type

Policy Type	Denial of Claim	Values/Charges	Misrepresentation	Terms & Conditions	Service	Total Non-disclosure	Inappropriate Advice	TOTAL
Whole of Life	16	9	3	1	8	1	0	38
Endowment	0	4	8	0	5	0	0	17
Investment Regular Premium	0	0	1	0	0	0	2	3
Investment Single Premium	0	0	4	0	5	0	2	11
Term/Temporary	32	0	2	5	10	0	0	49
Income Protection	198	1	4	4	16	4	2	229
Total & Permanent Disability	32	0	0	0	1	0	0	33
Trauma	17	0	0	0	3	0	0	20
Allocated Pension	0	0	2	0	4	1	0	7
Superannuation-Personal	0	0	0	0	13	2	9	24
Regular Premium	0	0	1	0	3	0	1	5
Deferred Annuity	0	0	0	1	1	0	0	2
Immediate Annuity	0	1	0	0	1	0	0	2
Single Premium	0	1	0	0	0	0	0	1
TOTAL	295	16	25	11	70	8	16	441

STATISTICAL SUMMARY

FICS ANNUAL REVIEW

2003

Complaint Outcomes – Life Insurance

2003		No.	%
Complaint not Forwarded to Member	Outside Rules	36	90.0
	Withdrawn	2	5.0
	Other*	2	5.0
		40	100
Finalised by Case Manager	In favour of complainant	124	41.1
	In favour of Member	132	43.7
	Outside Rules	29	9.6
	Withdrawn	17	5.6
		302	100
Adjudicator **	In favour of complainant	4	57.1
	In favour of Member	3	42.9
		7	100
Panel **	In favour of complainant	38	59.4
	In favour of Member	23	35.9
	Outside Rules	1	1.6
	Withdrawn	2	3.1
		64	100
TOTAL	In favour of complainant	166	40.2
	In favour of Member	158	38.2
	Outside Rules	66	16
	Withdrawn	21	5.1
	Other*	2	<1
		413	100

* Complainant did not provide additional information sought or authority requested.

** Excludes those cases where an Adjudication (2) or Determination (5) has been issued but the case remains open pending finalisation of administrative requirements.

Analysis of Complaints Outside Rules – Life Insurance

2003	No.	%
Underwriting decision	2	3.0
Investment performance	0	0.0
Member not involved	3	4.5
Subject to legal proceedings	1	1.5
Consent denied by fund trustee	11	16.7
Over monetary limit	10	15.2
Complainant knew all facts over six years ago	1	1.5
Complaint lodged with another scheme	12	18.2
Dispute prior to 1.10.90	2	3.0
Level of charges	2	3.0
Not a current Member	17	25.8
Not been to Member's IDR	2	3.0
Other	3	4.6
TOTAL	66	100

STATISTICAL SUMMARY

2003

FICS ANNUAL REVIEW

CASE STUDY – LIFE INSURANCE

The complainant was the owner of a term life policy with a living benefit cover of \$50,000 and a death benefit cover of \$69,000. The complainant was diagnosed with breast cancer and was paid the living benefit amount of \$50,000. The policy contained a buy-back option which allowed the complainant, upon request to the insurer, to buy back 50% of the value of the living death benefit which would be added to the death benefit.

The buy-back option needed to be requested in writing within 30 days of the twelve-month anniversary of the payment of the living benefit amount.

The complainant alleged that upon the one-year anniversary of the payment of the benefit she contacted the Member and requested to exercise the buy-back option. She claimed she was told by a customer service officer that she was ineligible to exercise this option.

Some two years later the complainant contacted the Member to increase her husband's level of cover and was informed about the buy-back option. This prompted her to write to the Member seeking to exercise the buy-back option on her policy. The Member declined as the time to do so had expired.

The Member informed FICS that they had no record of the alleged conversation that took place between the complainant and one of their customer service officers. Further, they pointed out that the policy clearly stated that to obtain or exercise the buy-back option the complainant needed to make the request in writing, within the necessary time. The Member stated they were not willing to provide the additional cover of \$25,000 as the complainant did not meet the condition of the policy.

The FICS Case Manager negotiated between the complainant and the Member.

The complainant conceded that it was her responsibility to be aware of the policy conditions particularly as the information was clearly stated in the policy document. She also agreed that she was not able to provide proof that she had spoken to the customer service officer.

Although the complainant did not receive the benefit she was seeking she expressed the view that she believed she had been given a fair hearing and was now in a position to better understand the Member's position. The complaint was resolved in favour of the Member.

STATISTICAL SUMMARY

FICS ANNUAL REVIEW

2003

FINANCIAL PLANNING

Status of Open Cases at the End of the Period

	No.	%
Investigation pending	73	17
Complaint under investigation	243	57
Complaint referred to Adjudicator	7	2
Complaint referred to Panel	100	23
Adjudication issued	2	<1
Determination issued	4	<1
TOTAL	429	100

Nature of New Written Complaints by Complaint Category

2003	No.	%
Inappropriate advice	260	62
Misrepresentation	55	13
Non-disclosure	5	1
Non-disclosure fees/charges	12	3
Non-disclosure – risk	2	<1
Non-disclosure conditions & warnings	1	<1
Policy values/charges	1	<1
Standard of Member's service	80	19
Share transaction – misunderstanding	1	<1
Denial of claim	1	<1
Technical problems	1	<1
TOTAL	419	100

Nature of New Written Complaints by Contract Type – Financial Planning

Contract Type	Denial of Claim	Values/Charges	Misrepresentation	Share Transaction Misunderstanding	Standard of Member Service & Tech Problems	Total Non-Disclosure	Inappropriate Advice	TOTAL
Managed Investments	0	0	22	0	24	6	86	138
Superannuation – Personal	0	0	0	0	17	6	60	83
Allocated Pension	0	1	8	0	7	4	38	58
Investment Single Premium	0	0	16	0	13	0	25	54
Shares – Derivatives/Warrants	0	0	0	1	11	0	18	30
Managed funds	0	0	4	0	0	0	19	23
Managed Investments – Cash	0	0	0	0	3	1	4	8
Investment – Regular Premium	0	0	1	0	0	0	5	6
Immediate Annuity	0	0	3	0	2	0	0	5
Unit Trusts Property	0	0	0	0	1	1	2	4
Deferred Annuity	0	0	0	0	2	0	0	2
Single Premium	0	0	0	0	0	0	2	2
Superannuation Company	0	0	0	0	0	1	1	2
Income Protection	1	0	0	0	0	0	0	1
Master Trusts	0	0	0	0	0	1	0	1
Term/Temporary	0	0	1	0	0	0	0	1
Whole of Life	0	0	0	0	1	0	0	1
TOTAL	1	1	55	1	81	20	260	419

STATISTICAL SUMMARY

2003

FICS ANNUAL REVIEW

Complaint Outcomes – Financial Planning

2003		No.	%
Complaint not Forwarded to Member	Outside Rules	16	69.6
	Withdrawn	2	8.7
	Other*	5	21.7
		23	100
Finalised by Case Manager	In favour of complainant	128	59.8
	In favour of Member	55	25.7
	Outside Rules	10	4.7
	Withdrawn	20	9.3
	Conciliation Conference	1	<1
		214	100
Adjudicator **	In favour of complainant	8	44.4
	In favour of Member	10	55.6
		18	100
Panel **	In favour of complainant	26	63.4
	In favour of Member	15	36.6
		41	100
TOTAL	In favour of complainant	162	54.7
	In favour of Member	80	27.1
	Outside Rules	26	8.8
	Withdrawn	22	7.4
	Conciliation Conference	1	<1
	Other*	5	1.7
TOTAL		296	100

* Complainant did not provide additional information sought or authority requested.

** Excludes those cases where an Adjudication (2) or Determination (5) has been issued but the case remains open pending finalisation of administrative requirements.

Analysis of Cases Outside Rules – Financial Planning

2003	No.	%
Level of investment performance	1	3.8
Member not involved	3	11.5
Over monetary limit	2	7.7
Complainant new all facts over 6 years ago	1	3.8
Complaint lodged with another scheme	4	15.4
Not a current Member	10	38.5
Superannuation trustee decision	1	3.8
Other	4	15.4
TOTAL	26	100

STATISTICAL SUMMARY

FICS ANNUAL REVIEW

2003

CASE STUDY – FINANCIAL PLANNING

The complainants, a husband and wife, approached the Member, a financial planning company, with a view to investing sufficient funds to retire by the age of 60. The complainants' investment history was of a basic nature and included an investment residential property which was negative-g geared and a number of shares in low risk investments that had been obtained through employee participation programs or company demutualisation.

The financial planner recommended that a wealth-creation style plan would be most suitable. A second financial planner was engaged to put together the plan. Although the plan was complex in nature, with numerous bank accounts and diversified investments, a number of other investors had utilised the plan and reached the financial goals they had set some years previously.

The financial planners correctly completed the necessary documents to determine the risk profile and other relevant information required by legislation. They presented the plan to the complainants who agreed to commence the investment strategy.

In subsequent months the plan decreased in value. The complainants formed the view that it was not achieving the projected forecast and as such would fail to reach its full potential, which they relied upon for retirement. On a number of occasions they raised their concerns with the financial planners involved in the creation of the plan. However, the financial planners were unable to convince the complainants that despite the market fluctuations the plan would produce the desired result in the ensuing years. As such the complainants withdrew from the plan, resulting in a loss in the vicinity of \$70,000.

This complaint was quite complex and involved numerous issues. The FICS Case Manager had a number of meetings with the Member and the complainants and was able to clarify and resolve a number of the more minor aspects of the complaint. However, the question of the investment loss remained unresolved. The complainants were firmly of the view that it was a result of bad advice. In contrast the Member asserted that the complainants should bear the loss due to the fact they withdrew from the plan prior to it reaching full maturity.

Further discussions took place and the FICS Case Manager was able to identify that one of the key issues of the complaint was whether or not the risks associated with the investment were suited to the tolerance of the complainants, and that they had been fully disclosed. On the surface it appeared that the risks had been disclosed in a compliant manner by the financial planners.

However, the complainants' risk was rated as moderate/balanced yet the underlying investments of the plan were clearly of an aggressive nature. Therefore, it appeared that the plan put together by the financial planners was unsuitable to the complainants, as the risks were above what they could tolerate.

The matter proceeded to a formal conciliation, which was conducted by the FICS Case Manager. Numerous issues of complaint were resolved at conciliation. The conciliation also helped to re-establish the relationship between the complainants and the Member, which led to further discussions between the parties, resulting in the matter being resolved by mutual agreement.

STATISTICAL SUMMARY

2003

FICS ANNUAL REVIEW

STOCKBROKING

Status of Open Cases at the End of the Period

	No.	%
Investigation pending	8	7
Complaint under investigation	58	47
Complaint referred to Adjudicator	5	4
Complaint referred to Panel	47	38
Adjudication issued	0	0
Determination issued	5	4
TOTAL	123	100

Nature of New Written Complaints by Complaint Category

2003	No.	%
Standard of Member's service	34	36
Inappropriate advice	52	55
Misrepresentation	1	1
Non-disclosure	0	0
Non-disclosure – fees/charges	1	1
Share transaction – misunderstanding	7	7
TOTAL	95	100

Complaint Outcomes – Stockbroking

2003		No.	%
Complaint not Forwarded to Member	Other*	3	100
		3	100
Finalised by Case Manager	In favour of complainant	27	43.5
	In favour of Member	27	43.5
	Outside Rules	3	4.8
	Withdrawn	5	8.2
		62	100
Adjudicator **	In favour of complainant	1	25.0
	In favour of Member	3	75.0
		4	100
Panel **	In favour of complainant	10	58.8
	In favour of Member	6	35.3
	Withdrawn	1	5.9
		17	100
TOTAL	In favour of complainant	38	44.2
	In favour of Member	36	41.9
	Outside Rules	3	3.5
	Withdrawn	6	6.9
	Other*	3	3.5
		86	100

* Complainant did not provide additional information sought or authority requested.

** Excludes those cases where an Adjudication (0) or Determination (5) has been issued but the case remains open pending finalisation of administrative requirements.

Nature of New Written Complaints by Contract Type

Contract Type	Values/Charges	Misrepresentation	Share Transaction Misunderstanding	Standard of Member Service	Total Non-disclosure	Inappropriate Advice	TOTAL
Shares – Derivatives/Warrants	0	0	7	32	1	50	90
Investment Single Premium	0	1	0	2	0	1	4
Investment Regular Premium	0	0	0	0	0	1	1
TOTAL	0	1	7	34	1	52	95

STATISTICAL SUMMARY

FICS ANNUAL REVIEW

2003

Analysis of Complaints Outside Rules – Stockbroking

2003	No.	%
Investment performance	0	0.0
Subject to legal proceedings	1	33.3
Over monetary limit	1	33.3
Other	1	33.3
TOTAL	3	100

CASE STUDY – STOCKBROKING

This complaint concerned the purchase of shares in three companies, which resulted in a loss of in excess of \$30,000.

The complainant alleged that the adviser actively sought to persuade him to buy the shares. He said that when doing so the adviser told him that other advisers employed by the Member were purchasing the stock in large numbers for their clients and he ought not to miss this opportunity. As such he believed the adviser was responsible for the advice, which resulted in the subsequent loss. Both parties agreed that at least one of the share purchases was of the speculative nature and that a loss had occurred.

However, the Member asserted they did not believe advice was provided by their representative to buy the said shares. Further that the complainant was an experienced and active trader in speculative and technology stock.

The matter could not be resolved by the FICS Case Manager and proceeded to the Panel for determination.

The Member was able to provide details of the complainant's purchases and sales for a period of 18 months. Other documents were also supplied by the Member, which in the opinion of the Panel clearly demonstrated that the complainant would have been well aware of the risk of trading in such stock when he bought the shares in respect to which the complaint was made.

In relation to the alleged advice provided by the adviser from the Member, the Member produced contemporaneous notes made by the adviser in which he recorded the instructions given to him by the complainant in respect of the shares. These notes also contained entries relating to instructions from other clients. The Panel accepted that the notes were genuine. They showed the orders that were placed by the complainant with the adviser were execution-only transactions and that no advice was provided by the adviser.

As a result of the Member and the representative maintaining comprehensive notes and documents as to the dealings with their clients they were able to prove that the assertions made by the complainant were in fact not correct.

The Panel in this case found in favour of the Member.

STATISTICAL SUMMARY

2003

FICS ANNUAL REVIEW

MANAGED INVESTMENTS

Status of Open Cases at the End of the Period

	No.	%
Investigation pending	37	39
Complaint under investigation	41	44
Complaint referred to Adjudicator	3	3
Complaint referred to Panel	13	14
Adjudication issued	0	0
Determination issued	0	0
TOTAL	94	100

Nature of New Written Complaints by Complaint Category

2003	No.	%
Inappropriate advice	33	40
Misrepresentation	11	13
Non-disclosure	1	1
Non-disclosure fees/charges	1	1
Policy terms & conditions	1	1
Standard of Member service	36	43
TOTAL	83	100

Nature of New Written Complaints by Contract Type

Contract Type	Misrepresentation	Standard of Member Service	Non-disclosure	Inappropriate Advice	Terms & Conditions	TOTAL
Managed Investments	10	18	1	15	1	45
Superannuation – Personal	0	7	0	3	0	10
Allocated Pension	0	0	1	3	0	4
Investment Single Premium	0	3	0	1	0	4
Managed Investments – Cash	0	3	0	1	0	4
Managed funds	0	0	0	3	0	3
Master Trusts	0	3	0	0	0	3
Shares – Derivatives/Warrants	0	1	0	2	0	3
Superannuation Company	0	1	0	2	0	3
Unit Trusts Property	1	0	0	1	0	2
Bank Deposits	0	0	0	1	0	1
Single Premium	0	0	0	1	0	1
TOTAL	11	36	2	33	1	83

STATISTICAL SUMMARY

FICS ANNUAL REVIEW

2003

Complaint Outcomes – Managed Investments

2003		No.	%
Complaint not Forwarded to Member			
	Outside Rules	4	80.0
	Withdrawn	1	20.0
		5	100
Finalised by Case Manager	In favour of complainant	28	56.0
	In favour of Member	15	30.0
	Outside Rules	4	8.0
	Withdrawn	3	6.0
		50	100
Adjudicator	In favour of complainant	3	50.0
	In favour of Member	3	50.0
		6	100
Panel	In favour of complainant	3	42.9
	In favour of Member	4	57.1
		7	100
Summary	In favour of complainant	34	50.0
	In favour of Member	22	32.3
	Outside Rules	8	11.8
	Withdrawn	4	5.9
		68	100

Analysis of Cases Outside Rules

2003	No.	%
Member not involved	1	12.5
Complaint lodged with another scheme	2	25.0
Not a current Member	3	37.5
Not been to Member's IDR	1	12.5
Over monetary limit	1	12.5
TOTAL	8	100

STATISTICAL SUMMARY

2003

FICS ANNUAL REVIEW

CASE STUDY – MANAGED INVESTMENTS

In March 2000 the complainant placed funds with the Member who was a fund manager. The monies were invested in Australian shares. The initial investment was \$30,000 (\$29,994 after entry fees). In April a further \$1,500 was invested.

On the first day of each quarter thereafter up to 1 April 2002 the fund distributed to unit holders income derived by it during that quarter. On 1 April 2000 the amount distributed to the complainant was \$1,855.98; at his request it was paid into his credit union account and not reinvested in the fund. Thereafter the full amount of each of the quarterly distributions was reinvested in the fund.

In May 2002 the complainant sold all the investment units and withdrew the full amount invested in the fund; he received \$26,696.56. That was \$4,803.44 less than the cash he had paid the Member in March and April 2000. The complainant held the Member responsible for his loss.

The Member had shown in a number of its publications that the fund was performing positively. The complainant said that he had retained his investment in the fund over the previous two years because the information provided in the publications had misled him regarding its ongoing performance.

The Service was provided with copies of the publications to which the complainant referred including the Member's prospectus in respect of all its funds. Not unexpectedly it contained a considerable number of pages, only a relatively small number of which were relevant to the fund in which the complainant invested. Details of the relevant fund were set out on one page and included figures relating to its performance over periods from one year to ten years and also from the date of its inception. For the period of one year up to 1 January 2002 they showed income of 6.84% but growth of -5.24%, resulting in an overall positive performance of 1.6%. On another page there was a statement of how a fund's performance is calculated. Most importantly it stated that the calculation was made on the assumption that the full amount of every distribution was reinvested in the fund. The increase of 1.6% was demonstrably calculated in that manner. That is to say, the percentage rates (positive and

negative) of the amount distributed and of the fund's growth respectively were set out and the sum of them is the overall performance percentage rate.

The Member provided its investors with a quarterly publication containing a good deal of information relating to the effects of events around the world on Australian companies and their prospects and also a summary of the performance of each of its funds during the quarter. The Service was provided with the publications for the summer and autumn of 2002. The first of them showed the one-year performance rate of the Australian share fund at 1 January 2002 as a positive 1.6%; that was precisely the information provided in the prospectus. In addition to its quarterly publications the Member provided each person holding units in any of its funds with a quarterly statement showing the performance of his or her own investment in that fund during the preceding quarter.

The quarterly statement sent to the complainant at the end of the first quarter of 2002 showed that the distribution at the end of the preceding quarter had been reinvested and 79.27 additional units purchased in his name. The investment value of the complainant's units in the fund on 1 April 2002 was shown as \$27,236.96; the value of the units he had been holding on 1 April 2001 had been shown as \$26,089.93.

There had, therefore, been an increase of 4.4%, the same as the increase shown in the Member's quarterly publication. Similarly when the information provided in the Member's quarterly statement for 1 January 2002 is compared with that provided in the quarterly statement for 1 January 2001, the value of his units was shown to have increased by 1.6%. So the information provided in the Member's publications was the same as that provided to the complainant personally in respect of his own investment.

The Adjudicator found therefore, that the information provided to the complainant by the Member directly in the quarterly statements and indirectly through its publications was not misleading, particularly in light of the information contained in the Member's prospectus regarding the manner in which investment performance would be calculated. The Adjudicator found in favour of the Member.

CHIEF EXECUTIVE'S REPORT

FICS ANNUAL REVIEW

2003

INTRODUCTION

It has been another challenging year, with phenomenal growth in the membership of the Service, from 1,903 at the end of 2002 to 2,335 by the end of 2003, and review implementation being almost completed. The Service now has 23 full-time staff and five part-time staff, as well as a full-time Panel Chair and numerous specialist Panel Members.

I am very proud of my Team at FICS. They have a vast knowledge of the financial industry and wide-ranging dispute handling skills. At times they work under extreme pressure, for example when the complaints received at FICS increased considerably in mid 2003, yet continue to perform at a high level and produce excellent outcomes. Without them my role would be considerably harder. I realise that from time-to-time Members, and to some extent consumers, don't always see eye-to-eye with my Team, however, FICS and those that utilise the Service are fortunate that we have such skilled and knowledgeable staff.



Alison Maynard
Chief Executive

COMPLAINTS

The Service dealt with 9,519 telephone enquiries and complaints and received 1,038 new written complaints in 2003 compared with 973 in 2002.

The Service received 441 new life insurance complaints compared with 520 in 2002. Financial planning complaints increased from 257 in 2002 to 419 in 2003. The number of complaints about stockbrokers reduced to 95 in 2003 compared with 135 in 2002. Managed investment complaints increased slightly to 83 in 2003 compared with 61 in 2002. Information about complaints is contained in the Statistics section of this Review.

REVIEW IMPLEMENTATION

The Service began implementation of the major recommendations of the review of FICS, which were developed into an Implementation Plan. The major initiatives undertaken during 2003 were the significant reduction of the use of letters of advice from Case Managers as a method of finalising complaints, the implementation of a new pilot programme for conciliation of complaints and the introduction of new information exchange procedures.

THE PANEL

The Panel finalised a total of 129 complaints and the Adjudicator 35.

The Service welcomed the new full-time Panel Chair, Michael Arnold. Ron Eggleston and Murray Gerken were appointed as Panel Chairs on 31 January 2003. New consumer representatives Jenny Lawton and Khaldoun Hajaj were appointed during 2003. John Berrill returned to the Service as a consumer representative in 2003.

Departing the Panel during 2003 was industry financial planning representative Peter Dunn.

COOPERATION

The 2003 year marked the first full year of operation of the call centre operated jointly with the Banking and Financial Services Ombudsman (BFSO), Insurance Enquiries and Complaints (IEC) and the Credit Union Dispute Resolution Centre (CUDRC). Consumers can contact all four Services on 1300 78 08 08. The group hopes to expand the facility to encompass other EDR schemes in the financial services sector.

CHIEF EXECUTIVE'S REPORT

2003

FICS ANNUAL REVIEW

During 2003 FICS adopted the Case Management System based on that used by the BFSO. FICS shares a Company Secretary, accounting area and IT System with IEC. The three schemes are examining further ways in which cooperation can be achieved. The next project is investigating the possible benefits of an IT System shared between all three schemes.

FICS INAUGURAL CONFERENCE

The very successful FICS Inaugural Conference was held on 17 November 2003 in Melbourne. Conference topics included; implementation of the FICS review, the consumer's perspective in relation to FICS, Financial Services Reform, Alternative Dispute Resolution and workshops on case related issues. The feedback from the Conference was positive and planning is well underway for the next Conference to be held in Sydney on 9–10 September 2004.

LIAISON

Liaison meetings for Members were held in Sydney, Brisbane and Melbourne during 2003. The major focus for the meetings was the pilot conciliation process being used by FICS. In 2003 the implementation of a programme of assisting Members with their first complaint before FICS and plans for Member Information Seminars focussing on FICS processes were developed. The first two Seminars took place in Melbourne in February 2004.

The Service also provides monthly reports to the Australian Stock Exchange (ASX) and the Financial Planning Association (FPA). Regular meetings are held with both organisations.

RULES

One Rule change approved by the Board during 2003 was a change to Rule 15 to enable the Service to deal with complaints about pooled superannuation trusts. These entities are not covered by the Superannuation Complaints Tribunal and the amendment to the Rules was made at the request of industry and ASIC. A major review of the Rules is planned for 2004.

SYSTEMIC ISSUES AND SERIOUS MISCONDUCT

The Service continued to monitor systemic issues and serious misconduct. It has not yet been necessary to name any Member to ASIC. However, some systemic issues outstanding from 2003 are yet to be resolved. The Service continues to provide quarterly reports to ASIC containing statistical data and information about systemic and other issues.

LEGAL ACTIONS

Last year I reported that the Service was a defendant in two legal actions which had been launched by a Member seeking to set aside a Panel determination, and a complainant seeking personal injury damages suffered as a result of a Panel determination.

The first action is still in the interlocutory stages. The action by the consumer appears to have become statute barred for want of action by the complainant.

CHIEF EXECUTIVE'S REPORT

FICS ANNUAL REVIEW

2003

MANAGEMENT TEAM

The Service appointed Michael D'Argaville to the position of Legal Services Manager and Trevor Slater to the position of National Relations Manager in late 2003. They join Denny Meadows, National Operations Manager and it has been terrific to have their support when dealing with the challenges that face the Service.

THANKS

I thank the FICS Board Members and in particular the Chair of the Board, Peter Daly for support and assistance during 2003. I also thank the Panel Chairs; Michael Arnold, Dick Viney, Ron Eggleston, Murray Gerkens and Ian Thompson and all Industry and Consumer Panel Members for their contribution during the year. As mentioned, without the great Team we have at FICS my job would be a lot harder. Therefore I would also like to sincerely thank my Team whose professionalism and dedication make FICS what it is today.



Alison Maynard

CHAIR OF THE BOARD'S REPORT

2003

FICS ANNUAL REVIEW



Peter E. Daly
Chair of the Board

Following the activity in the financial services sector to meet the 11 March 2004 deadline under the new Financial Services Reform legislation, FICS has not only expanded the Service, but membership has jumped by 31%. Today, FICS' membership comprises the largest representation of the financial sector.

The year under review has been a time of transition for the Service. Following the Independent Review undertaken in 2002 and the Board's adoption of the challenging Implementation Plan, there have been extensive internal changes in the Service's operation and processes. These have resulted in the introduction of improved communication between Members and their customers and the adoption of a new Conciliation Process. Clearly our primary and fundamental responsibility always has been and will always be to focus on the resolution of complaints as quickly as possible.

Many complaints are still resolved with the assistance of highly experienced Case Managers. Failing resolution by the Case Managers, the determination of a complaint is made by an Adjudicator or Panel. FICS takes great pride in its independent decision-making process, freely publishing details of every determination, together with its Constitution and Rules.

Besides dealing with specific complaints, FICS also deals with thousands of enquiries each year, both from Members' customers and the public at large.

An issue for the Board during 2003 has been the relationship between FICS and other External Dispute Resolution (EDR) schemes in the financial services sector and the wider external environment. In particular, FICS has Members in common with other complaint schemes. Now that it is possible for Members to conduct a number of activities under one Australian Financial Services Licence, there is a need for the EDR environment to deal with these realities of the licensing regime, whilst maintaining excellence of service.

The joint call centre operated by FICS, Banking and Financial Services Ombudsman (BFSO), Insurance Enquiries and Complaints (IEC) and Credit Union Dispute Resolution Centre (CUDRC) has been of enormous benefit to members of the general public wishing to access the schemes. However, more still needs to be done in the area of co-operation between the external complaint schemes to enable ease of use and access both for members and consumers in the financial services sector.

Considerable progress has been made in securing resources to achieve the Service's obligations, culminating in the appointments of Public Relations, Operations and Legal Services managers and I congratulate them on their progress and achievements made since their appointments.

Personally, I am pleased to Chair a Board comprised of three industry representatives and three consumer representatives. My colleagues on the Board are extremely committed to their responsibilities and have worked hard to achieve the significant changes emanating from the Implementation Plan, change in membership, the adoption of new processes and the support they have given to management and staff.

Very important to FICS is its membership, the principal associations, and the consumer movement. Their support, encouragement and confidence in the Board and management have been greatly appreciated.

CHAIR OF THE BOARD'S REPORT

FICS ANNUAL REVIEW

2003

Much of the hard work takes place in the Board Committees. The Committee system reveals the great depths of expertise and talent that the Service can draw on to examine problems and create solutions. Currently there are five committees – the Finance Committee and the ad hoc Committees; Remuneration, Review, Selection and Rules Committees. I would like to thank all the Committee members for their participation and dedicated work during the past year.

Departing the Board in 2003 was Heather Loewenthal who was replaced by Richard Gilbert and in early 2004 Wes McMaster departed, being replaced by Dominic Alafaci. I would like to thank Heather and Wes for their contribution during their time on the Board. I would also like to thank all Board Members for their respective contributions and support during the year.

Additionally I would like to thank the Panel and the Adjudicator for the work undertaken by them during the year. Michael Arnold was appointed as the full-time National Panel Chair in November 2003. My personal thanks to Dick Viney for his work as Panel Chair during 2003, which includes assisting with the workload even after the appointment of Mr Arnold. A special thank you to the other Panel Chairs, Ron Eggleston, Murray Gerkens and Ian Thompson. Ian also performs the majority of the Adjudicator work done by the Service.

In support of the Panel, there are a number of Panel representatives appointed by the Board on the recommendation of the respective industry associations and the consumer movement. All have contributed extremely well and greatly assisted the Service in its decision-making process. I would like to thank all of them for sharing the workload and for offering the Panel their professional services.

Certainly the significant and measurable progress that has been made during the year under review could not have been achieved without the staff of the Service and in particular the Chief Executive, Alison Maynard. I would like to thank all for their hard work during the year. FICS staff are committed professionals whose work continues to be of great benefit to the community and the industry.



Peter E. Daly

THE BOARD OF DIRECTORS

2003

FICS ANNUAL REVIEW



Peter E. Daly
(Chair)

Peter E. Daly – Chair of the Board

Appointed a director of the Company and the Chair in January 1997. He came to Australia in 1980 from South Africa and was appointed the Chief Executive and Managing Director of Norwich Winterthur Group in 1983. He held a number of directorships since then, was the President of the Insurance Council of Australia 1986–1987 and Chief Executive Officer from 1991–1997. He was the Deputy Chairman of the Zoological Parks and Gardens Board and is also the Chair of Insurance Enquiries and Complaints Limited.



Dominic Alafaci

Dominic Alafaci, B.Ec., B.Bus.(Acc), CPA,CFP

Appointed a director of the Company on 16 March 2004 representing industry participants. Dominic was a member of the Australian Society of Investment and Financial Advisors, which helped form today's Financial Planning Association (FPA), and is currently a director of FPA. He has also sat on the FPA's Audit Committee, as well as the State Council and other FPA committees since its inception. Dominic has held senior roles as a practitioner and Financial Planning Manager for Bain & Company, Deutsche Bank, HSBC and more recently as the Managing Director of Collins House Financial Services Pty Ltd, a boutique multi-disciplinary practice.



Richard Gilbert

Richard Gilbert, B Com, Dip Ed and a MMgt Econ (UNSW)

Appointed a director in 2003 as an industry representative. He is the Chief Executive Officer of the Investment and Financial Services Association (IFSA), the voice of the segment of the financial services sector that manages over \$630 billion on behalf of nine million Australians. He held the position of Deputy CEO during the period 1998–2002. Prior to the formation of IFSA, Richard was the Executive Director of the Investment Funds Association.

His experience in funds management includes employment as General Manager, Wholesale Distribution, in the Credit Union Services Corporation (1994–1997). From 1991 to 1994 he was Secretary to a number of Senate Committees, including the Senate Select Committee on Superannuation. Whilst working in the Senate, Richard was the foundation Director of the Parliamentary Education Office (1989–1991).



David Lidbetter

David W. Lidbetter, B.Sc., Dip.Scc Inst.

Appointed a director of the Company on 10 November 1999 as a consumer representative. In 1975 he was appointed managing director for Berger Paints Australia, a position held until 1980 when he was appointed Supervising Director and Chief Executive of the parent group Berger Jenson & Nicholson who were responsible for operating companies worldwide. In 1986 he retired to focus more time on private interests. He has played a part in community work and in 1986 was appointed as Community Representative on the Sydney Airport Community Forum and various airport Committees.



Jenni Mack

Jenni Mack, BA, MALP (Admin Law and Policy)

Appointed a director of the Company on 10 November 1999 as a consumer representative. Jenni has extensive consumer affairs and complaints handling experience. She is a former executive director of the Consumers' Federation of Australia, the peak consumer body. She was also the deputy legal services Commissioner in NSW responsible for handling complaints about lawyers. She currently represents the community on the NSW Judicial Commission (which amongst other things deals with complaints about judicial officers), the Migration Agents' Registration Authority's complaints panel and is a director of Insurance Brokers Disputes.

THE BOARD OF DIRECTORS

FICS ANNUAL REVIEW

2003

Dr Justin E. Malbon, LL.B (Adel) LL.M (York, Can) PhD (UNSW) Barrister

Appointed a director of the Company on 20 November 2002 as a consumer representative. He is an Associate Professor at the Law School at Griffith University. Prior to that he was an Assistant Parliamentary Counsel with the Queensland Office of Parliamentary Counsel and a solicitor at the Melbourne office of Blake Dawson Waldron. He has been actively involved in the consumer movement for many years, holding positions as president of the Queensland Consumers' Association and as a member of the board of the Australian Federation of Consumer Organisations.



Justin Malbon

David W Squire, Dip AII, GMO (UNSW), QPIB, AACI

Appointed a director of the Company on 9 August 2002 representing industry participants. Currently the National Regulatory Policy Manager for MLC, the Wealth Management Division of the NAB, he has over thirty-nine years experience in general banking, life insurance and financial planning in a variety of roles. He has a record of industry advocacy dating back to 1982 and is currently a director of the National Insurance Brokers Association, a member of the IFSA Regulatory Affairs board committee and the FPA Policy and Government Relations Advisory Board Committee and National Councillor of the Australian Compliance Institute. Additionally he chairs a number of active committees at the aforementioned bodies and is a member of the Treasury's FSRA Implementation Consultative Committee.



David Squire

ABOUT THE BOARD

2003

FICS ANNUAL REVIEW

RESPONSIBILITIES OF THE BOARD

- Overseeing and monitoring the activity of the Service and ensuring the independence of the dispute resolution process;
- Appointing all members of the Panels and the Adjudicators;
- Ensuring the Panels and Adjudicators adhere to the Service's Rules (but not to the extent of overturning a decision made by either body);
- Analysing statistical information;
- Analysing and commenting on the Annual Review;
- Satisfying itself that promotional programs are properly funded;
- Effecting appropriate changes to the Rules after consultation;
- Ensuring the Service meets all government benchmarks, policies and guidelines and maintains its approved status;
- Identifying recurrent or ongoing industry problems and reporting serious misconduct to the regulators.

MEETINGS

The Board met seven times in February, April, May, July, August, October and November. Three meetings were held in Sydney and four in Melbourne.

MAJOR INITIATIVES

- Preparation of an Implementation Plan, together with a timetable, in response to approved recommendations contained in the Independent Review Final Report.
- Publication and placement on the FICS website, of the Independent Review of the Financial Industry Complaints Service 2002 – Final Report (Review Final Report).
- Appointing Michael Arnold as the full-time National Chair of the Panel.
- Appointing Ron Eggleston and Murray Gerkens as Alternate Panel Chairs for a period of three years, until January 2005.
- Reappointment of Ian Thompson as an Adjudicator for a further three years until July 2006.
- Appointment as a director of Richard Gilbert (Investment & Financial Services Association) as an industry representative for a three-year period until 2006.
- Appointment of Consumer Panel Members Jenny Lawton and John Berrill for three years until May 2006.
- Approval of the amendment to Rule 15, allowing FICS to deal with complaints relating to Pooled Superannuation Trusts.

ABOUT THE BOARD

FICS ANNUAL REVIEW

2003

COMMITTEES

Finance Committee (standing committee)

Chair: David Lidbetter

Members: Richard Gilbert, Alison Maynard (Chief Executive) and Brian de Kock (Company Secretary).

Meetings: Five

Function: Monitor accounts, review annual accounts, meet with auditors.

Review Committee (ad hoc)

Chair: Peter Daly

Members: Jenni Mack, Heather Loewenthal and Alison Maynard.

Meetings: One

Function: To conduct the tender process and select tenderer, supervise review process, prepare the Board's response to the Final Report, oversee the Implementation Plan.

Panel Chair Selection Committee (ad hoc)

Chair: Peter Daly

Members: Jenni Mack, David Squire and Alison Maynard.

Meetings: One

Consumer Panel Members Selection Committee (ad hoc)

Chair: Alison Maynard

Members: Jenni Mack and David Squire.

Meetings: Two

Functions: To oversee selection process and recommend candidates to the Board for appointment.

Rules Committee (appointed by FICS Management)

Chair: Alison Maynard

Members: Jenni Mack, industry association representatives David Mico (IFSA), Brook Sweeney (IFSA), June Smith (FPA) and Doug Clark (SDIA). Consumer representatives, John Berrill and Justin Malbon.

Meetings: Nil

Function: This committee provides the major consultative vehicle for the Board when considering Rules changes. In practice proposed Rules changes are signed off by this committee before being considered by the Board.

Remuneration Committee (ad hoc)

Chair: David Squire

Members: Heather Loewenthal

Meetings: Two

Function: Review remuneration of FICS Board directors.

ABOUT THE BOARD

2003

FICS ANNUAL REVIEW

CONSTITUTION AND RULES

The Service is governed by a Constitution and Rules. The Constitution sets out the objectives of the company and governs the operation of the company. The Rules, on the other hand, provide the detail on how the Service will deal with complaints. The Constitution of the company may only be changed at a General Meeting however the Rules of the Service may be changed by the Board.

The Rules Committee

The Rules Committee was formed in early 2000 to be a consultative body representing the stakeholders of the Service. It has the ability to make recommendations to the Board in relation to the Rules of the Service. The Board has adopted a practice of referring Rules changes to the Rules Committee for consideration prior to making changes. The current members of the Rules Committee are David Mico (IFSA), Brook Sweeney (IFSA), June Smith (FPA), Doug Clark (SDIA), John Berrill (Senior Partner, Maurice Blackburn Cashman Lawyers), Jenni Mack and Justin Malbon who are also Board members.

The Constitution of the committee fulfils the Service's obligation to consult widely with the Service's stakeholders, including different industry and consumer groups in relation to changes to the Rules.

Constitution and Rule changes during 2003

Only one Rule change occurred during 2003.

A superannuation entity can take three forms; an approved deposit fund, a regulated superannuation fund and a pooled superannuation trust. The Superannuation Complaints Tribunal can deal with complaints only in relation to the first two and cannot handle complaints about pooled superannuation trusts.

FICS Rule 15 excluded all decisions of superannuation trustees. The intention of the Rule change was to provide FICS with the ability to deal with complaints in relation to the decision of trustees of a pooled superannuation trust, whilst continuing to exclude decisions of the trustees of approved deposit funds and regulated superannuation funds.

Rule 15 was amended by replacing the words "decisions of superannuation trustees" with "decisions of trustees of approved deposit funds and of regulated superannuation funds" thus empowering FICS to deal with complaints relating to Pooled Superannuation Trusts.

The Service places significant emphasis on its educative role, including activities such as seminars, industry forums and Alternative Dispute Resolution (ADR) group forums.

THE FICS WEBSITE

The Service disseminates much information via its website www.fics.asn.au.

The website contains FICS contact details, determinations of the Panel and the Adjudicator, Rules and Constitution, complaint forms, privacy information, a list of Members which is updated daily, the FICS Annual Review and our regular Bulletins.

During 2003 additional web pages containing information on the Conciliation Conference Process and the FICS Annual Conference were added. In 2004 the Member Information Seminar manual will be published on the website.

Seven FICS Bulletins were issued in 2003 (Nos. 11–17) which contained such matters as the Minutes of all of the Liaison Meetings held, Practice Notes issued by the Panel, announcements of staff changes, notification of Rules changes and notification of meetings with Members.

FORUMS, CONFERENCES & SEMINARS

Industry

- SDIA Conference, Sydney, 30 May 2003
- Australian Financial Markets Association Seminars, Sydney, Brisbane and Melbourne
- Investment and Financial Services Association Conference, Cairns, 15 August 2003
- Presentation to Leveraged Equities, division of Adelaide Bank, Sydney, 2 October 2003
- Presentation to the Australian Stock Exchange, 2 October 2003
- AMP Compliance Managers Conference, Melbourne, February 2003
- FPA Convention, Adelaide, 8–9 October 2003

Consumer

- Alternative Dispute Resolution Forum, Canberra, 4 March 2003
- NSW Community Legal Centres Conference, Sydney, 16 April 2003
- Consumer Forum held jointly with ABIO, IEC, TIO and EWOV, Melbourne, 27–29 May 2003
- Consumer Forum, Darwin, 20 August 2003
- Alternative Dispute Resolution Forum, Sydney, 26 November 2003

Other

- Financial Information Service Officers (Centrelink) Training Seminar, Perth, 13 March 2003
- Financial Information Service Officers (Centrelink) Training Seminar, Sydney, 14 March 2003
- Financial Sector Ombudsman Conference, Wellington, New Zealand, 23–25 July 2003
- NADRAC, Alternative Dispute Resolution in Business, Sydney, 4–5 September 2003
- Presentation for Sydney Law Society, 22 September 2003

Media Articles featuring FICS

- The Age, Money Manager section, 17 February 2003, 26 July 2003, 3 September 2003
- Choice Magazine, February 2003
- Money Management Magazine, 13 March 2003, 3 July 2003, 24 July 2003 (correction), 18 September 2003, 9 October 2003, 16 October 2003, 27 November 2003
- Sydney Morning Herald, Money Manager section, 18 June 2003, 25 June 2003 (correction)
- Age Pension News, Winter edition 2003
- Independent Financial Adviser, August 2003 x 2, 22–28 September, 22 October – 2 November, 3 November 2003
- Asia Pacific Law Review, October 2003
- Independent Retiree, Summer edition 2003

MEMBERSHIP

2003

FICS ANNUAL REVIEW

The Constitution of FICS provides for six different membership categories.

- Category A – life insurance
- Category B – reinsurers
- Category C – managed investments
- Category D – superannuation
- Category E – brokers, financial and security advisers
- Category F – non-voting (must be under a certain size to be eligible for this category).

Full details of the Membership categories can be found in the FICS Constitution, a copy of which can be obtained from the Service, or viewed on the FICS website www.fics.asn.au.

All Members are listed on the FICS website, which is updated daily and where Members have informed FICS of their website details, the Member's website can be accessed by clicking on the Member's name.

The Service had 636 new Members joining the Service during 2003 however, there were also cancellations, mergers and changes of category which resulted in a net growth of 432 Members.

	Members as at 31 December 2002	Members as at 31 December 2003
Category A life insurance	36	41
Category B reinsurers	5	5
Category C managed investments	216	268
Category D superannuation	0	0
Category E brokers, fin. & security advisers	167	149
Category F non-voting	1,479	1,872
TOTAL	1,903	2,335

SYSTEMIC ISSUES AND SERIOUS MISCONDUCT

FICS ANNUAL REVIEW

2003

FICS has a responsibility to identify systemic issues and cases of serious misconduct that arise from complaints, refer these matters to the relevant Member(s) for response and action and report information about the systemic issue or serious misconduct to ASIC in accordance with agreed guidelines and thresholds.

A systemic issue is one that may have further implications for a Member beyond the immediate actions and rights of the parties to the complaint. Whilst several complaints of the same type may indicate a systemic issue, it is not enough to define or classify a systemic issue by reference only to the number of complaints the Service may receive. A systemic issue can be identified by one complaint; this is because the effect of the particular issue will clearly extend beyond the parties to the complaint.

Rule 63 provides that, "the Board must ensure that FICS has procedures in place for dealing with systemic issues and serious misconduct". FICS has published its procedures for dealing with systemic issues and serious misconduct in Bulletin No. 5, October 2001.

Some systemic issues dealt with during 2003 were:

MISLEADING SIMPLE ENGLISH DESCRIPTION OF INSURANCE POLICY

An insurer Member has a standard deeming provision in its income protection policies that, if the person becomes disabled 30 days after an accident, it is assessed as an illness rather than an accident, with a shorter period of cover.

In one instance that led to a complaint to the Service, the Member had provided to the complainant, prior to the income protection policy being entered into, a simple English statement intended to give a clear understanding of the protection provided under the policy. However, that statement failed to make any reference to the standard deeming provision, which was included in the policy ultimately taken out by the complainant. The schedule to the policy also made no reference to the deeming provision.

The same issue appears to have arisen in another complaint recently received by the Service against the same Member.

The Service has raised this issue with the Member, who has recognised there is a problem and undertaken to respond to the Service about it.

FORMER MEMBER'S BUSINESS TAKEN OVER BY ANOTHER MEMBER

This matter involved complaints against a financial planner who was a Member of FICS. The Service ascertained that at the date the complaints were received the Member had ceased to be a Member by virtue of clause 10.1(c) of FICS' Constitution because it had surrendered its licence to ASIC and gone into voluntary liquidation. As this had occurred some months prior to FICS receiving the complaints, the Service did not have jurisdiction to handle the complaints and the files were closed.

Subsequently, one of the consumers provided the Service with documentation in which another Member (A) referred to itself as "incorporating" the former Member complained about and referred to itself as "the merged entity". This appeared to be in conflict with a statement by that Member to FICS' accounts section that it had merely "purchased the business assets" of the former Member but not the legal entities.

SYSTEMIC ISSUES AND SERIOUS MISCONDUCT

2003

FICS ANNUAL REVIEW

FICS wrote to its current Member (A) seeking clarification of these issues and reopened the complaints. The complaints were reopened against a third Member of this Service (B) because Member A advised the Service that its employees, in providing financial planning advice and services to the former Member's clients, were Authorised Representatives of Member B.

Member B is cooperating with FICS in providing additional information and documents regarding the sale of the former Member's business and suggesting rectification of any misunderstanding arising out of Member A's acquisition of the former Member's business.

FAILURE TO INFORM CUSTOMERS OF AVAILABILITY OF EXTERNAL DISPUTE RESOLUTION

This matter arose out of a complaint about the Member introducing a fee. The Member was of the view that FICS did not have jurisdiction to handle the complaint. The Service determined that the complaint was within its jurisdiction and, as a small sum was involved, the Member promptly resolved the complaint with the complainant directly.

In the course of discussing this with the Member, it appeared that there were a number of similar cases in which the Member, believing that the complaints were outside FICS' jurisdiction, had not informed consumers, whose complaints about the introduction of the fee outside an amnesty period were rejected, that they could complain to FICS.

The Service wrote to the Member asking what action it now proposed to take in relation to the consumers whose complaints they had rejected. The focus of the Service's concern is in relation to those consumers being advised of their right to seek to have their complaints handled by the Service. This matter is yet to be resolved. However, in the course of corresponding with the Member, it has been ascertained that there are 140 consumers affected.

FUTURE DEVELOPMENTS

FICS ANNUAL REVIEW

2003

The financial services environment is always changing. The recent introduction of the new FSRA legislation is a good example.

As such FICS will need to continue to develop its services, in particular the provision of first class complaint resolution processes, to keep meeting the needs of both consumers and Members.

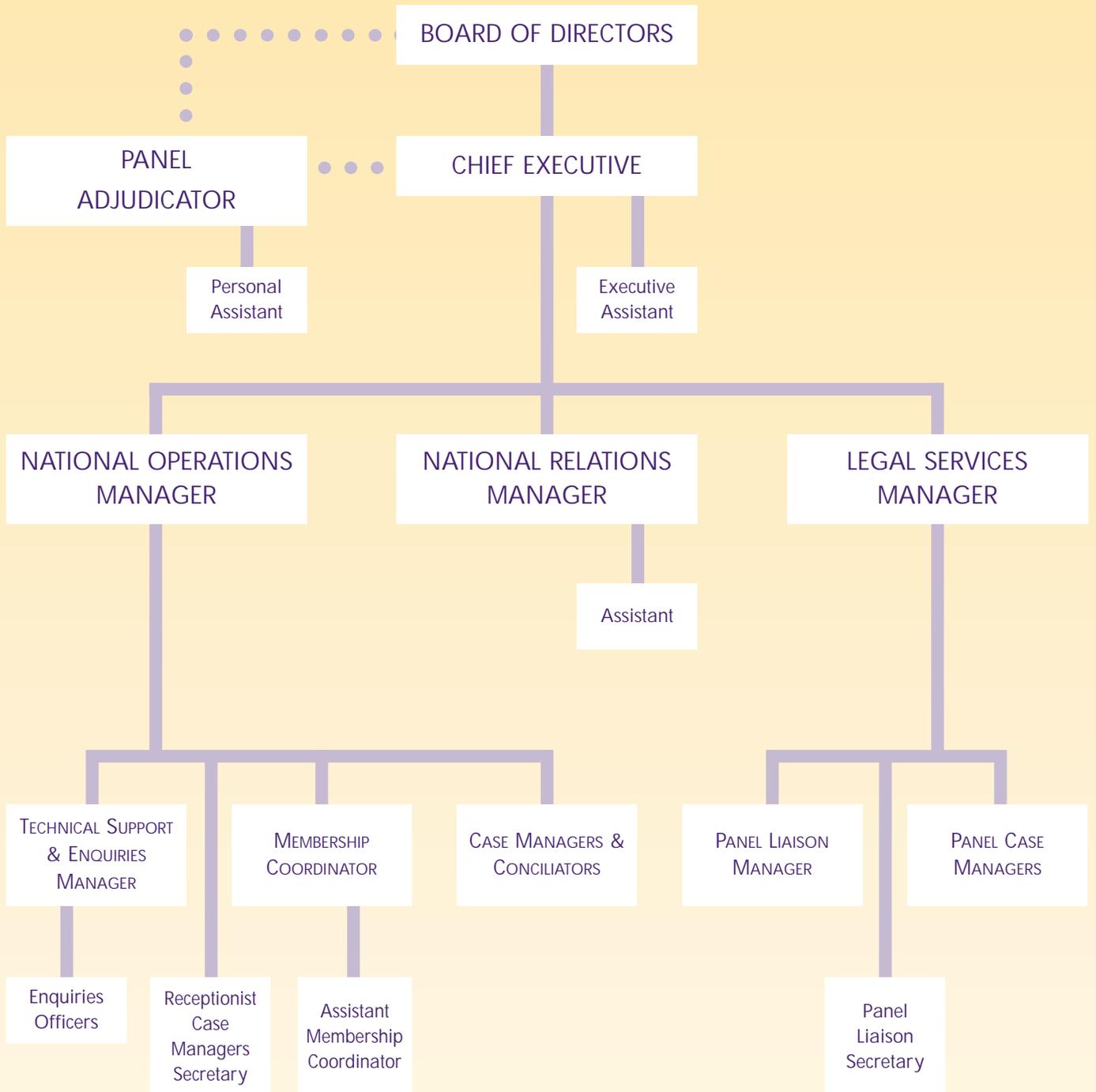
In 2004 FICS has plans to:

- Educate new and existing Members about the role and processes of the Service through Member Information Seminars and regular Liaison Meetings.
- Finalising the pilot and full implementation of the Conciliation Conference process.
- Review the FICS complaint process with a view to increasing the use of Conciliation Conferences and reducing complaint-handling times.
- Conduct a major review of the Rules of the Service.
- Conduct a review of the FICS Constitution.
- Continue to improve the Panel process, including the issue of Practice Notes and consultation with Members.
- Examine further opportunities for cooperation with other financial sector EDR schemes.
- Implement a Risk Management Program.
- Conduct the 2004 Annual Conference in Sydney.
- Investigate the feasibility of providing complaint handling training to FICS Members.

ORGANISATION CHART

2003

FICS ANNUAL REVIEW



Key

● ● ● ● ● Administrative Responsibility

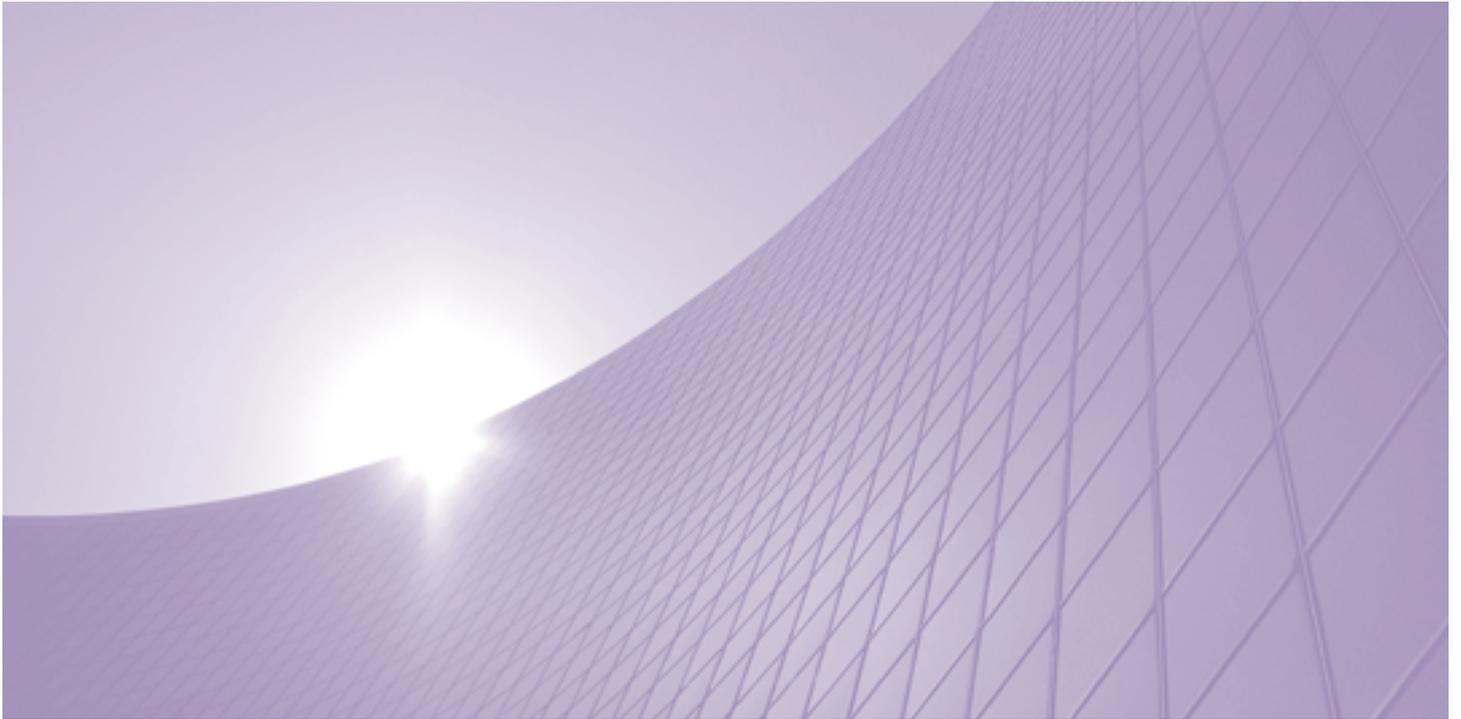
— Direct Reporting

MEMBER COMPANIES

FICS ANNUAL REVIEW

2003

FICS Member Companies can be found on the website: www.fics.asn.au



2003

FICS ANNUAL REVIEW



**FINANCIAL INDUSTRY
COMPLAINTS SERVICE LIMITED**

ABN 64 068 901 904

PO Box 579
Collins Street West
Melbourne Victoria 8007

Telephone	03 8623 2000
Toll Free	1300 78 08 08
Facsimile	03 9621 2291
Email	fics@fics.asn.au

Website	www.fics.asn.au
---------	--